

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-102: Appropriation and Expenditure of Grant Funding for Pershing/Redwood Drive Improvements.

(Greater North Park Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-805) ADOPTED AS RESOLUTION R-302386

Authorizing the acceptance of the Community-Based Transportation Planning Grant in the amount of \$150,000;

Authorizing the Mayor, or his designee, to execute the program supplement agreement, agreement amendments, and any other documents necessary to execute the Community-Based Transportation Planning Grant Program, in an amount not to exceed \$150,000;

Authorizing the City Auditor and Comptroller to establish a special interest bearing fund for the Community-Based Transportation Planning Grant;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2007 Capital Improvements Program Budget for CIP-52-696.0, Pershing/Redwood Drive Improvements by \$150,000 from the Community-Based Transportation Planning Grant Program, contingent upon receipt of a fully executed agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend \$150,000 from CIP-52-696.0, Pershing/Redwood Drive Improvements, Community-Based Transportation Planning Grant Program, for the purpose of preparing a study to improve the intersection of Pershing Drive and Redwood Drive, contingent upon receipt of a fully executed grant agreement and upon receipt of certification that the necessary funds are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller to transfer \$47,000, Transnet Funds, from CIP-58-077.0, Via de la Valle Bikeway, to CIP-52-696.0, Pershing/Redwood Drive Improvements;

Authorizing the City Auditor and Comptroller to appropriate and expend the amount of \$47,000, Transnet Funds, from CIP-52-696.0, Pershing/Redwood Drive Improvements, for the purpose of preparing a study to improve the intersection of Pershing Drive and Redwood Drive, contingent upon receipt of certification that the necessary funds are available;

Authorizing the City Auditor and Comptroller, upon the direction of the Mayor, or his designee, to reallocate the funding sources between Transnet and Commercial paper funded projects as may appropriate to maximize the use of Transnet cash and reduce the use of Commercial Paper funding for CIP-52-696.0, Pershing/Redwood Drive Improvements;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer any excess funds from CIP-52-696.0, Pershing/Redwood Drive Improvements, to the appropriate reserves;

Declaring this activity (funding actions for planning studies) is statutorily exempt from CEQA pursuant to State CEQA Guidelines Section §15262.

STAFF SUPPORTING INFORMATION:

The Pershing Drive corridor serves as a major connection between Downtown San Diego and North Park. Being within Balboa Park and adjacent to a residential area, the pedestrian demands are high, particularly at the intersection with 28th Street and along Redwood Street. However, the existing intersections lack the features necessary to adequately serve the pedestrian needs of the area. In response to these issues and the concerns expressed by area residents, staff examined the feasibility of changes to the intersections, including the implementation the T intersection configuration described in the East Mesa Community Precise Plan. Due to a lack of funding and community opposition to the installation of a T intersection with an all-way stop sign, permanent changes to the intersection were postponed until a significant investigation of the area could be conducted. As an interim measure, a revised striping arrangement for the intersection was implemented in the Spring of 2002, which has helped to temporarily alleviate some of the traffic issues.

In 2006, the State of California approved a grant application in the amount of \$150,000 for the development of a comprehensive transportation plan for this area as part of their Community-Based Transportation Planning Program.

Since this grant amount represents only a portion of the resources needed for the investigation of the entire corridor, staff recommended and Caltrans agreed that the first phase of the effort should focus on the Pershing/Redwood/28th Street intersection, which represents the most

immediate need for the area. The investigation for the remainder of the corridor would be part of subsequent grant applications.

The study will investigate the area of the Pershing Drive, 28th Street, and Redwood Street to develop permanent solutions for the traffic issues including the needs of motorists, pedestrians, and bicyclists. The work will include public outreach, community workshops, development of conceptual drawings for potential solutions, and a final report with detailed recommendations.

FISCAL CONSIDERATIONS:

To date, \$77,484 has been spent on the preliminary investigations and implementation of the interim traffic improvements. The cost of the current study is \$197,000, which includes \$150,000 from the Community-Based Transportation Planning Grant and \$47,000 for the City matching funds required by the grant program. For the City matching funds, \$47,000 of TransNet funds is available from CIP-58-077.0, Via de La Valle Bikeway project, which is now complete. No expenditures are anticipated to be incurred against commercial paper at this time. In an effort to defer the issuance of commercial paper, available cash in the amount of \$47,000 will be identified through our cash management process.

PREVIOUS COUNCIL COMMITTEE ACTION:

November 14, 2005 (R-301025) - Council authorized to submit the Community-Based Transportation Planning Grant application.

May 2005 - \$12,516 was transferred to CIP-39-226.0, North Park Pershing Portal Project (R-300399).

December 13, 2004 - \$120,000 was transferred to CIP-52-406.0, Thorn Street Median Project, as part of FY 06 CIP budget. (R-300957)

February 8, 2001 - City Council allocated \$180,000 Transnet funds for the Pershing/Redwood Drive Improvements Project as part of FY 02 CIP budget.

FY 02 - City Council allocated \$30,000 CAPOUT (Capital Outlet Fund) for the Pershing/Redwood Drive Improvements Project as part of FY 02 CIP budget.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Greater North Park Community Planning Committee.

KEY STAKEHOLDERS:

Greater North Park Community Planning Committee

Greater North Park Community Planning Committee Traffic Committee

Park and Recreation Department

Boekamp/Haas

Aud. Cert. 2700552.

Staff: Dave Zoumaras - (619) 533-3138
Jeremy A. Jung - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-103: Solid Waste Local Enforcement Agency (LEA) Waste Tire Enforcement Grant Application.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-761) ADOPTED AS RESOLUTION R-302387

Authorizing the submittal of an application to the CIWMB for a Waste Tire Enforcement Grant for a period of July 1, 2007 until June 30, 2012;

Authorizing the Mayor, or his designee, to execute, in the name of City of San Diego, all necessary applications, contracts, payment requests, agreements, and amendments hereto for the purposes of securing grant funds and to implement and carry out the purposes specified in the application;

Authorizing the LEA to accept, expend and administer any amendments, extensions, renewals, or future funding of this appropriation for a period of up to five years, provided funding is made available by the CIWMB;

Directing the City Auditor and Comptroller to create a separate fund for the grant monies;

Declaring this activity is exempt from CEQA Guidelines Section 15061(b)(3).

STAFF SUPPORTING INFORMATION:

The LEA is requesting the non-competitive grant funds to continue the ongoing inspection, surveillance, enforcement programs and other activities and projects designed to prevent illicit tire disposal and to assure a high level of compliance with applicable state laws and regulations. This grant will allow the LEA to continue its effective waste tire enforcement program, to provide regulatory guidance to waste tire businesses and, when necessary, to take enforcement action to remedy threats to public health and safety and the environment. Additionally, the LEA is proposing to expand its waste tire program regionally to include the cities of Chula Vista and Imperial Beach. Please find the attached resolution authorizing the LEA to execute this program in these jurisdictions.

The LEA has provided a model waste tire enforcement program that has been recognized and duplicated throughout the state. Also, the grant has been a springboard for obtaining other grant monies for cleaning up waste tires and trash in the Tijuana River Valley and for coordinating broader environmental issues with federal, state, and local agencies in the United States and Mexico.

FISCAL CONSIDERATIONS:

NOT A MATCHING GRANT. Up to \$164,833 may be available for reimbursement from the CIWMB Waste Tire Fund. The program is funded through the state's collection of a \$1.75 fee on the purchase of new tires. The LEA does NOT collect fees from stakeholders to support this program. The amount of the grant has increased based on anticipated costs to include additional work in Chula Vista and Imperial Beach.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

As a result of previous council approvals, the LEA has received this grant annually and has been implementing it since 1999. However, with this application the LEA will be requesting a five (5) year approval from the CIWMB to implement the program continuously starting June 30, 2007 through June 30, 2012.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The program also includes outreach to the regulated community through the development and distribution of literature and public presentations to stakeholder groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The program includes annual or biannual inspections of new and used tire dealers, vehicle fleets, automotive dismantlers, car dealerships and rental agencies, and registered waste tire haulers as well as response to public complaints and agency referrals.

Escobar/Waring

Staff: Bill Prinz - (619) 533-3696
Kimberly Ann Davies - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-104: Additions to the Regional Arterial System.

(Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-747) ADOPTED AS RESOLUTION R-302388

Authorizing the Mayor, or his designee, to submit to the San Diego Associations of Governments (SANDAG) a list of requested additions to the Regional Arterial System, for inclusion in the 2007 Regional Transportation Plan (RTP).

STAFF SUPPORTING INFORMATION:

As part of the Regional Transportation Plan (RTP) created by the San Diego Association of Governments (SANDAG), the Regional Arterial System (RAS) is a collection of larger local roadways that are considered by SANDAG to make significant contributions to the effectiveness of the regional transportation system. The RAS supplements the region's freeways by providing alternative routes during times of congestion, providing for mass transit, and allowing for efficient travel across local agencies boundaries. As part of the 2007 update to the RTP and the provisions of the TransNet extension, SANDAG has revised the criteria for regional arterials and requested that each local agency submit any changes. These changes do not require the removal of any existing roadways from the RAS. However, staff has developed a list of proposed

additions to the RAS as shown in Attachment A of this report. This list of roadway segments is based on the new SANDAG criteria, the latest travel patterns, and current projections for future projects.

FISCAL CONSIDERATIONS:

This action has no direct costs associated with it. However, as part of the TransNet measure extension, future transportation projects will need to be part of the RAS in order to be eligible for funding from the Regional Transportation Congestion Improvement Program (RTCIP), which draws its funding from voter approved regional development fee. Implementation of this regional fee collection process within the City will be part of a future action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Although no direct outreach was performed as part of this action, the recommended additions to the RAS were drawn primarily from the existing community plans.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

San Diego Association of Governments.

Boekamp/Haas

Staff: Dave Zoumaras - (619) 533-3138
Jeremy A. Jung - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-105: 2007 Project Area Committee (PAC) Election Results for the North Park Redevelopment Project Area.

(See memorandum from Janice Weinrick dated 2/13/2007. North Park Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-779) ADOPTED AS RESOLUTION R-302389

Ratifying the election results of February 13, 2007, for the North Park Redevelopment Project Area Committee (PAC);

Declaring this activity is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

Council authorized a one-year extension of the PAC and directed Redevelopment Agency staff to notice and conduct an election for the North Park Redevelopment Area PAC in 2007 by Resolution No. R-302181 on December 5, 2006.

On February 13, 2007, the North Park PAC conducted its Annual Election and meeting in accordance with the PAC Formation Procedures and PAC Bylaws. Five vacancies were available to be filled at the Annual Election. The categories included: Two (2) Residential Tenants, One (1) Residential Owner-Occupant, One (1) Business Owner and One (1) Community Organization.

The results of the February 13, 2007 PAC Election are listed in Exhibit A.

As of the time of the writing of this report, no protests or communications regarding the North Park PAC election have been received. If any protests or communications are submitted, they will be reported to the Council and made available for public review at the Public Hearing. In accordance with the PAC Formation Procedures, City Council ratification of the Annual Election results is required.

FISCAL CONSIDERATIONS:

None. Administration of the Project Area Committee is funded through the Redevelopment Agency Annual Project Budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Council authorized a one-year extension of the PAC and directed Redevelopment Agency staff to notice and conduct an election for the North Park Redevelopment Area PAC in 2007 by Resolution No. R-302181 on December 5, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Approximately 11,700 election notices and Project Area maps were mailed to all residential owner-occupants, property owners, tenants, businesses and community organizations. The mailings included information about the PAC as well as general information about redevelopment. In addition to the mailings, approximately 6,120 door hangers were distributed, a notice was published in the January issue of the North Park News and approximately 30 notices were posted in the Project Area at locations including public schools, businesses, the North Park Recreation Center and the North Park Library.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The North Park community.

Weinrick/Anderson

Staff: Michelle Rosenthal - (619) 533-5449
Kendall D. Berkey - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-106: Appointment and Reappointment to the San Diego Convention Center Corporation Board of Directors.

(See memorandum from Mayor Sanders dated 1/4/2007.)

(Continued from the meeting of February 6, 2007, Item 110, at the request of Councilmember Hueso, for further review.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-728 Cor. Copy 2) ADOPTED AS RESOLUTION R-302390

Council confirmation of the following appointment and reappointment by the Mayor of the City of San Diego, to serve as members of the San Diego Convention Center Corporation, for terms ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Alexis S. Gutierrez (Pacific Beach, District 2) (Replacing Chris Frahm, whose term expired)	December 1, 2009
Cheryl Fisher (Resides in the County of San Diego) (Reappointment)	December 1, 2009

Stating that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointment, it is determined that Cheryl Fisher is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Commission, therefore, a conscious exception to Council Policy 000-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-107: Appointment to the Commission on Gang Prevention and Intervention.

(See memorandum from Mayor Sanders dated 1/30/2007.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-777) ADOPTED AS RESOLUTION R-302391

Council confirmation of the appointment by the Mayor of the City of San Diego, to serve as a member of the City of San Diego Commission on Gang Prevention and Intervention, for a term ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Scott Silverman (La Jolla, District 1) (Replacing Elias Vazquez, who resigned)	District 3, Member	July 1, 2007

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-108: Westfield Appreciation Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-795) ADOPTED AS RESOLUTION R-302392

Recognizing and celebrating the generosity and community spirit demonstrated by Westfield Corporation on behalf of the Hoover High School Boys Varsity Basketball Team;

Proclaiming February 27, 2007, to be "Westfield Appreciation Day" in the City of San Diego.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-109: Annie Leibovitz Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-774) ADOPTED AS RESOLUTION R-302393

Commending Annie Leibovitz for her artistic accomplishments and welcoming her to the San Diego Museum of Art in beautiful Balboa Park;

Proclaiming February 15, 2007 to be "Annie Leibovitz Day" in the City of San Diego.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-110: Coalition for Reproductive Choice Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-757) ADOPTED AS RESOLUTION R-302394

Recognizing The San Diego Coalition for Reproductive Choice and commending it for its work to support, protect and educate the public about reproductive freedom;

Proclaiming January 22, 2007, to be "Coalition for Reproductive Choice Day" in the City of San Diego.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-111: Black History Month.

COUNCIL PRESIDENT PRO TEM YOUNG'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-808) ADOPTED AS RESOLUTION R-302395

Proclaiming the month of February 2007 as "Black History Month" in the City of San Diego and commending and thanking all African-Americans who have contributed to the rich and prosperous history of our nation.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-112: Excusing Councilmember Frye from Attending the January 29, 2007 City Council Meeting.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-792) ADOPTED AS RESOLUTION R-302396

Excusing Councilmember Donna Frye from attending the regularly scheduled City Council Meeting on January 29, 2007, due to illness.

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-330: First Implementation Agreement to the Disposition and Development Agreement with Veterans Village of San Diego for Veterans Village Project and Associated Actions.

(See Redevelopment Agency Report No. RA-07-05/RTC-07-004. Midway Pacific Highway Corridor Community Plan Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-713) ADOPTED AS RESOLUTION R-302397

Recognizing that Council has received and heard all oral and written objections to the proposed First Implementation Agreement, to the proposed sale of the Property pursuant thereto, and to other matters pertaining to this transaction, and that all such oral and written objections are overruled;

Finding and determining that the consideration to be paid by the Developer for the sale of the Property as described in the First Implementation Agreement and Attachments thereto is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the First Implementation Agreement and Amended Attachments;

Finding and determining that the sale of the Property will assist in the elimination of blight in the North Bay Redevelopment Project Area, will provide housing for low and very low-income persons and is consistent with the Project Area Redevelopment Plan;

Approving the sale of the Property and the First Implementation Agreement which establishes the terms and conditions for the sale and development of the Property;

Authorizing the City Clerk to deliver a copy of this resolution to the Executive Director and members of the Agency;

Declaring a Mitigated Negative Declaration, Project No. 3787, was prepared for the project in accordance with California Environmental Quality Act (CEQA) Guidelines. This project is adequately addressed in that document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered this activity as part of the previously approved project, the activity is not a separate project for purposes of CEQA or NEPA.

STAFF SUPPORTING INFORMATION:

On September 2, 2003, the Redevelopment Agency (Agency) entered into a Disposition and Development Agreement (DDA) with Vietnam Veterans of San Diego for the development of a multi-phase residential treatment facility for homeless veterans in the North Bay Redevelopment Project Area (Project Area). The site is located at 4141 Pacific Highway.

The project is proposing to construct 112 transitional living units comprised of 96 very low income beds at or below 50% area median income (AMI) and 16 low income units at 60% AMI as well as construct an employment center/admissions building. The proposed Agreement states that the Agency will subsidize the affordable units in an amount not to exceed \$4,350,000. The Agency's contribution to the improvement, specifically \$1,300,000 is proposed to be structured as a forgivable loan at zero percent interest, for a term of 65 years. If VVSD complies with all the requirements of the agreement, the loan will be forgiven. The remaining \$3.05 million will be used for land acquisition and relocation expenses.

The \$4,350,000 financing gap is proposed to be financed from the North Bay Redevelopment Project area and Naval Training Center Redevelopment Project area.

With this action, the Agency will be requested to authorize the offer and acquisition of a property owned by Wells-Kemper L.P. Wells-Kemper L.P. has indicated their willingness to sell their property for the project. The Agency will be required to provide relocation assistance to all affected occupants. The Agency will purchase the parcel and lease to the current tenants until conditions warrant its conveyance to VVSD. Staff anticipates that these actions should be completed by April of 2007.

In addition, the Phase II property is proposed to be conveyed to VVSD for the purchase price of \$1 and associated conveyance costs as outlined in the Summary Re-use Analysis (33433 Report). The project also requires the approval of a Replacement Housing Plan. VVSD plans to demolish 87 existing rehabilitation beds and replace them onsite with 112 transitional rehabilitation beds.

FISCAL CONSIDERATIONS:

Total Agency funding will not exceed \$4,350,000. A total of \$4,200,00 is available from the North Bay Redevelopment Project Area. In addition, \$150,000 will be provided from the Naval Training Center Redevelopment Project Area. The \$4,200,000 contribution from the North Bay funds is proposed to be applied to fulfill the Division's \$15,000,000 commitment under the original \$55,000,000 NOFA program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On September 2, 2003, the Agency entered into a DDA with VVSD for the development of Veterans Village. On September 2, 2003, the City Council certified that the Mitigated Negative Declaration, LDR No. 3787, had been completed in compliance with the National Environmental Policy Act and California Environmental Quality Act. On December 14, 2006, the Affordable Housing Collaborative Executive Loan Committee reviewed the proposal and voted to recommend the project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Midway Community Planning Group voted unanimously to recommend approval of the project on May 6, 2003, by a vote of 12-0-0. On November 1, 2006, the PAC voted 6-0 with one member recused, to recommend the funding for the First Implementation Agreement. The PAC reviewed and voted 16-0 with one member recused, to approve the Replacement Housing Plan at their December 6, 2006 meeting.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

<u>Role</u>	<u>Firm/Contact</u>	<u>Ownership</u>
Veteran's Village of San Diego (VVSD)	Vietnam Veterans of San Diego (dba) Veterans Village of San Diego Contact: Al Pavich	501 (c)(3) Nonprofit Phil Landis, Chair Mike Madigan, Vice Chair Will Hays, Secretary

Development Manager	The Trimble Company Contact: Kent Trimble	Kent Trimble
Architect	Fehlman Labarre Architects Contact: Mike Labarre	Mike Labarre
Community Relations	L.J. Black Consulting Contact: Laurie Black	Laurie Black

The proposed project meets critical needs for homeless housing identified in the City's Comprehensive Homeless Policy (000-51) by creating additional transitional housing for the homeless.

Ostrye/Waring

Staff: James Davies - (619) 533-5373
Carol A. Leone - Deputy City Attorney

NOTE: See the Redevelopment Agency agenda of February 27, 2007, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:36 p.m. – 2:36 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-331: Two actions related to Historic Balboa Theatre Rehabilitation – Request to Take Such Actions as Necessary to Provide for the Fabrication and Installation of the Marquee Canopy and Vertical Blade Sign.

(See the Centre City Development Corporation Report CCDC-07-03. Horton Plaza Redevelopment Project. District 2.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-806) ADOPTED AS RESOLUTION R-302398

Finding and determining that the fabrication and installation of the marquee canopy and vertical blade sign for the Historic Balboa Theatre for which the Agency proposes to pay is of benefit to the Horton Plaza Redevelopment Project;

Finding and determining that no other reasonable means for financing the Project are available to the community and that the Project will assist in eliminating one or more blighting conditions inside the Project Area, and that the Project is consistent with the Centre City and Horton Plaza Implementation Plans for July 2004-June 2009, on file in the Office of the Secretary to the Agency pursuant to California Health and Safety Code Section 33490, all as described in Attachment A;

Declaring the City Council has previously reviewed and considered the information contained in the Master Environmental Impact Report for the Centre City Redevelopment Project, which includes the Horton Plaza Redevelopment Project and the Balboa Theatre, and the Environmental Secondary Study prepared for the rehabilitation of the Balboa Theatre.

Subitem-B: (R-2007-793) ADOPTED AS RESOLUTION R-302399

Stating for the record that the City Council has previously reviewed and considered the information contained in the environmental documents collectively referred to as MEIR/SEIR, and the Secondary Study, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with the approval of the fabrication and installation of the marquee canopy and vertical blade sign for the Historic Balboa Theatre;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above fabrication and installation of the marquee canopy and vertical blade sign for the Historic Balboa Theatre.

SUPPORTING INFORMATION:

The Notice to Proceed for the construction of the final renovation phase of the Theatre was effective June 12, 2006. The procurement strategy for the fabrication and installation of the marquee and vertical blade sign has always been for the Corporation to have a direct contract with the sign contractor. This strategy was implemented due to a desire to have direct control over the quality of the fabrication and installation, as well as a fiscal/budget strategy. If the project is not approved, the Balboa Theatre exterior will be missing a significant architectural character defining element.

FISCAL CONSIDERATIONS:

Funds are available in the Fiscal Year 2007 Horton Plaza Redevelopment Project Balboa Theatre budget. The estimated project cost is \$500,000.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On January 31, 2007, the Centre City Development Corporation Board approved this item.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

In 2003, at the initiation of the design, the design team performed a program and budget development process via a series of work sessions with the stakeholders. These work sessions provided the stakeholders, which included CCDC, San Diego Theatres, potential user groups, technical representatives, and public representatives, a forum to define the mission, design goals, program requirements, budget goals, and schedule objectives. Ultimately these goals were incorporated in the Project Planning Guide.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The key stakeholders for the project are the proposed future operator, San Diego Theatres, and the future arts organizations that will use the Theatre. The marquee canopy and vertical blade sign are the architectural components that clearly identify the building as a theatre from the street. The marquee canopy also contains an electronic reader board that will provide announcements of the performances at the Theatre.

Bosse/Graham

NOTE: See the Redevelopment Agency Agenda of February 27, 2007 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:47 p.m. – 3:47 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-332: Wightman Street Neighborhood Park Request for Grant Amendment and Request for Special Park Fees.

(See Report to the City Council No. 07-037. City Heights and Mid-City Community Areas. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-524) CONTINUED TO TUESDAY, MARCH 27, 2007

Authorizing the Mayor, or his representative, to request approval from the State of California Department of Parks and Recreation to amend the project location in grant contract number UP-37-002 to 5024 Wightman Street (Project) and request for Special Park Fees;

Amending the Fiscal Year 2007 Capital Improvement Program Budget by adding CIP-29-925.0, Wightman Street Neighborhood Park Acquisition and Development;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$2,363,000 from CIP-29-596.0, Fox Canyon Park Acquisition and Development, to CIP-29-925.0, Wightman Street Neighborhood Park Acquisition and Development, contingent on receipt of State of California approval for the project location at Wightman Street;

Authorizing the City Auditor and Comptroller to de-appropriate \$686,000 from CIP-29-596.0, Fox Canyon Neighborhood Park, to be returned to Special Park Fee, Fund No. 39094;

Authorizing the appropriation and expenditure of an amount not to exceed \$686,000 from Special Park Fee, Fund No. 39094 to CIP-29-925.0, Wightman Street Neighborhood Park Acquisition and Development, solely and exclusively, for the purpose of providing funds for Wightman Street Neighborhood Park Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Declaring the above expenditure of \$686,000 from Special Park Fee, Fund No. 39094 to CIP-29-925.0, Wightman Street Neighborhood Park Acquisition and Development is contingent on appropriate approval and award of one or more contracts if said project will not be performed by City forces, and provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure under such contracts are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$167,000 from General Services/Streets Division (Gas Tax) funding in Fund No. 100, Department No. 534, Organization No. 2755, Object No. 4209 and Job Order No. 001240 to Fund No. 630221, Contributions from Fund No. 100;

Amending the Fiscal Year 2007 Capital Improvement Program Budget by increasing the budget amount by \$167,000 in CIP-29-596.1, Fox Canyon Neighborhood Park-Ontario Avenue, Fund No. 630221, Contributions from 100 Fund;

Declaring the appropriation and expenditure of an amount not to exceed \$167,000 from CIP-29-596.1; Fox Canyon Neighborhood Park Ontario Avenue, Fund No. 630221, Contributions from Fund No. 100, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to de-appropriate \$167,000 from CIP-29-596.1, Fox Canyon Neighborhood Park-Ontario Avenue, Fund No. 630221, to be returned to Special Park Fee, Fund No. 39094;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring this activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3).

STAFF SUPPORTING INFORMATION:

A State Park grant in the amount of \$2,363,000 was awarded to the City of San Diego for the construction of Fox Canyon Park in the City Heights Neighborhood. The grant requires a willing seller; however, the City could not justify the sellers' requested price, for the proposed property. The City has therefore withdrawn its offer to purchase the property.

The City Heights area is park deficient; so the City sought other properties, in the neighborhood, that might fulfill the requirements of the State Park Grant. The City acquired the Wightman Street Property (Metzger Property) through Council action on August 8, 2006. This new parcel is within 680 feet of the original Fox Canyon Park parcel, is adjacent to Auburn Creek, similar to the original parcel, and serves the same neighborhood. Park Planning and Development Division must resubmit this new location to the State Department of Parks and Recreation for their approval; the approval is not guaranteed.

The Park and Recreation Board has discussed the idea of transferring the Mid-City Special Park Fees and the Grant monies to the Wightman Street Property at the September, October and November 2006 Board Meetings. At the January 18th Park and Recreation Board a motion was passed in favor of the Wightman Street Park site. A second motion was passed requesting follow-up on an alternate funding source for the Ontario Avenue Design Development from Mid City Special Park Fees to a more compatible funding source. The Mayor's Office has identified General Services/Streets Division (Gas Tax) Funds for this.

The Fox Canyon park site will remain in consideration as a potential park. Once a determination is made regarding the development of Ontario Avenue, and if the site is available, the City will consider purchasing it to continue the "String of Pearls" concept along Chollas Creek.

FISCAL CONSIDERATIONS:

Funding is available in CIP-29-596.0, Fox Canyon Neighborhood Park, Fund 39034, Special Park Fees, because the Fox Canyon Neighborhood Park project will no longer be completed. Additional funding in the amount of \$2,363,000 from the State Parks Urban Parks Grant may be available, subject to approval from the State of California for a re-scope of the Fox Canyon Neighborhood Park to Wightman Street Neighborhood Park. In addition, funds in the amount of \$167,000 (includes interest), Fund 100, General Services/Streets Division (Gas Tax) Fund is also available for Fox Canyon Park-Ontario Avenue.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- 12/01/03 Council approved \$30K Community Development Block Grant for Pre-Acquisition services (Resolution R-298643)
- 12/07/03 Council approved application to the State for \$2,363,000 through the Urban Park Act of 2001. (Resolution R-298701)
- 06/21/04 Council authorized \$900,000 from Mid-City Special Park Fees for acquisition and development of Fox Canyon. (Resolution R-299371)
- 06/13/05 Council authorized funding for the purchase of the Fox Canyon Parcel. (Resolution R-300516)
- 12/05/05 Planning Commission approved the Site Development Permit for Fox Canyon Park. (PC-05-358)
- 03/21/06 Council approved the Mitigated Negative Declaration for Fox Canyon Park. (Resolution R-301321)
- 08/08/06 Council approves the purchase of Wightman Street Property.
- 11/27/06 Council approves a motion to rescind the Mitigated Negative Declaration and Site Development Permit for the Fox Canyon Neighborhood Park and Road.
- 11/30/06 Park and Recreation Board approves a motion to pursue both park properties.
- 01/18/07 Park and Recreation Board approves a motion to transfer State Grant to Wightman Street site.
Park and Recreation Board approves a motion to pursue alternate funding for Ontario Street design development.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

- 05/10/05 Fox Canyon Community Input at Pro Kids Golf with Councilman Madaffer.
- 06/06/05 City Heights Planning Group
- 06/09/05 Euclid Revitalization Committee
- 07/06/05 City Heights Planning Group
- 08/22/05 Public Notice of Draft Mitigated Negative Declaration
- 10/12/05 Planning Commission Hearing Officer: certified MND and approved Site Development Permit
- 12/01/05 Planning Commission
- 02/06 Ontario Rd. Task Force (three meetings)
- 03/21/06 City Council (appeal of the Mitigated Negative Declaration)

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The Fox Canyon Neighborhood Association, the Chollas Creek Neighborhood Association, the Colina del Sol Recreation Council, City Heights Planning Group, Euclid Revitalization Committee, Fox Canyon Task Force, Project Design Consultants.

Aud. Cert. 2700354.

Staff: April Pendera - (619) 525-8265
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:38 p.m. – 3:45 p.m.;
3:48 p.m. - 4:09 p.m.)

MOTION BY MADAFFER TO CONTINUE TO TUESDAY, MARCH 27, 2007.

Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-333: Four actions related to 47th Street Self Storage.

Matter of approving, conditionally approving, modifying, or denying an application for a General Plan & Progress Guide and Southeastern San Diego Community Plan Amendment to allow moving and household storage facilities within Specialized Commercial land use category of the Lincoln Park Neighborhood via a Planned Development Permit; a Site Development Permit for industrial development within the Southeastern San Diego Planned District, and for Sustainable Development which deviates from the applicable development regulations; and an Easement Abandonment to abandon a slope easement that is no longer necessary to construct a 162,327 square foot self storage building with 43,828 additional square feet of basement on a vacant 1.87 acre site with deviations to floor area (2.0 where 0.5 is allowed), lot coverage (0.57 where 0.5 is allowed) & landscaping (tree distribution) at 930 S 47th Street within the Encanto Community of the Southeastern Community Planning Area, and the Southeastern San Diego Planned District, within City Council District 4. Mitigated Negative Declaration No. 82503.

(MND No. 82503/MMRP/PDP No. 260654/SDP No. 260818/PG&GP & SESDCP No. 260655/Easement Abandonment No. 392085. Project No. 82503. Southeastern San Diego Community Plan Area. District 4.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-748)

ADOPTED AS RESOLUTION R-302400

Adoption of a Resolution certifying that Mitigated Negative Declaration LDR No. 82503, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of Site Development Permit No. 260818/Planned Development Permit No. 260654, Easement Abandonment No. 390285, and amendments to the Progress Guide and General Plan and Southeastern San Diego Community Plan No. 260655 for the 47th Street Self-Storage Project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the Office of the City Clerk and incorporated by reference, is approved;

That pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2007-749)

ADOPTED AS RESOLUTION R-302401

Adoption of a Resolution certifying findings supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference, with respect to SDP No. 260818 and PDP No. 260654;

That Site Development Permit No. 260818 and Planned Development Permit No. 260654 is granted to 47th Street Self-Storage, LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

Subitem-C: (R-2007-750) ADOPTED AS RESOLUTION R-302402

Adoption of a Resolution amending the Southeastern San Diego Community Plan No. 260655;

Amending the Progress Guide and General Plan for the City of San Diego to incorporate the above amended plan.

Subitem-D: (R-2007-751) ADOPTED AS RESOLUTION R-302403

Adoption of a Resolution certifying findings for Public Service Easement Abandonment San Diego Municipal Code Section 125.0150;

That the slope easements, as described in the legal description attached hereto as Exhibit "A," and as more particularly described on Drawing No. 20628-B, attached hereto as Exhibit "B," and said Exhibits also on file in the Office of the City Clerk, is ordered vacated and Easement Abandonment No. 392085 is therefore granted;

That the City Clerk shall cause a certified copy of this resolution, along with Exhibits "A" and "B," attested by her under seal, to be recorded in the Office of the County Recorder.

OTHER RECOMMENDATIONS:

Planning Commission on January 11, 2007, voted 6-0 to recommend approval of the proposed project based on staff's recommendation, with the addition of two conditions, which have been added to the permit; no opposition.

Ayes: Naslund, Garcia, Schultz, Griswold, Ontai, Otsuji
(1 vacancy)

On June 19, 2006, the Encanto Neighborhoods Community Planning Group voted 14-0-0 to approve the project as proposed. On June 12, 2006, the Southeastern San Diego Planning Committee voted 11-0-0 to approve the project as proposed.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of the development of a 206,155 square-foot self storage facility on a vacant 1.87 acre site at 930 47th Street, in the Specialized Commercial land-use designation of the Lincoln Park Neighborhood of the southeastern San Diego Community Planning Area.

STAFF RECOMMENDATION:

Recommend that the City Council: **Certify** Mitigated Negative Declaration No. 82503 and **Adopt** the Mitigation, Monitoring, and Reporting Program; **Approve** amendments to the Progress Guide and General Plan, and the Southeastern San Diego Community Plan, No. 260655; **Approve** Planned Development Permit No. 260654; **Approve** Site Development Permit No. 26081 8; and **Approve** Easement Abandonment No. 392085.

EXECUTIVE SUMMARY:

The vacant 1.87-acre rectangular project site is located at 930 47th Street, between Logan Avenue and Solola Avenue, east of Interstate 805. The site is located in the Lincoln Park neighborhood of the Encanto Neighborhoods section of the Southeastern San Diego Community Plan and is designated Specialized Commercial. The site is located in the Southeastern San Diego Planned District Ordinance and is zoned CSF-3 (Commercial, commercial strip development with parking in the front or side of the building). Surrounding land uses include multi-family to the south and east, commercial to the north, and Interstate 805 to the west.

The 47th Street Self-storage project would involve an amendment to the Progress Guide and General Plan and the southeastern San Diego Community Plan, a Planned Development Permit, Site Development Permit, and Easement Abandonment to allow the development of a 206,155 square-foot self-storage facility.

The proposed community plan amendment would add language to the southeastern San Diego community plan permitting moving and self-storage uses under the Specialized Commercial land use designation at the subject site only. No changes are proposed to the community plan land use map. Please see the Community Plan Analysis Section of the attached Planning Commission Report (Attachment 4) for further detail.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On January 11, 2007, the Planning Commission recommended approval of the Staff recommendation by a unanimous vote of 6 to 0 with no abstentions, with the addition of the following conditions:

1. Prior to issuance of any construction permits, landscape and irrigation construction documents consistent with the Land Development Manual, Landscape Standards shall take into account more drought tolerant, native species within the plant palette to replace the abundance of ornamental plant species currently proposed on the Landscape Development Plan (Exhibit "A").
2. Prior to the issuance of building permits, the applicant's construction documents shall reflect the use of sustainable and/or recycled construction materials.

On June 19, 2006, the Encanto Neighborhoods Community Planning Group voted 14-0-0 to approve the project as proposed. On June 12, 2006, the Southeastern San Diego Planning Committee voted 11-0-0 to approve the project as proposed. See Attachments 18 and 19 of the attached Planning Commission Report (Attachment 4).

Staff at the Southeastern Economic Development Corporation (SEDC) reviewed the project for the proposed development of a moving and household storage facility to be located at 47th Street south of Logan Avenue. The site is located within SEDC's area of influence and is immediately south of the Central Imperial Redevelopment Project Area. SEDC is in support of the proposed use for this site given the constraints of adjacency to Interstate 805 and the sloping terrain, and the project's provision of an adequate buffer between the I-805 and the residents directly across the street.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The owner and applicant is 47th Street Self-storage, LLC. Members of the Limited Liability Corporation are Clyde Ahrens, Donna Ahrens, Nadine Ahrens, and Jack Ahrens.

Waring/Escobar-Eck/DS

LEGAL DESCRIPTION:

The proposed project site is located at 930 47th Street, between Logan Avenue and Solola Avenue, in the Southeastern San Diego Planned District, and the Encanto neighborhood of the Southeastern San Diego Community Planning Area and is more particularly described as a portion of Lot 61, Map 283; APNs: 552-010-11 and 552-010-12).

Staff: Dan Stricker – (619) 446-5251
Nina M. Fain – Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: F-10039

COUNCIL ACTION: (Time duration: 2:26 p.m. – 2:29 p.m.)

MOTION BY YOUNG TO ADOPT. Second by Atkins. Passed by the following vote:
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Hueso-yea.

ITEM-334: Champa's Tentative Map and Slope Easement Vacation.

Matter of approving, conditionally approving, modifying or denying an application for a Tentative Map to create five lots with no buildings on a 1.05-acre site and to vacate a slope easement originally needed to construct 66th Street. The street has been constructed, and the easement is no longer required. The project site is located on the west side of 66th Street, between Cielo Drive and Leghorn Avenue.

(Project No. 5455/Tentative Map No. 9000/Slope Easement Vacation No. 407882. Encanto Community Plan Area. District 4.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-702) ADOPTED AS RESOLUTION R-302404

Adoption of a Resolution certifying findings supported by the minutes, maps and exhibits, all of which are herein incorporated by reference, with respect to Tentative Map No. 9000;

That based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 9000, is hereby granted to CHAMP PHANTHAVILAY, Applicant/Owner/Permittee, subject to the attached conditions which are made a part of this resolution by reference;

Certifying that the information contained in Negative Declaration 5455 for Project No. 5455 has been completed in compliance with the California Environmental Quality Act and State CEQA Guidelines, and that said Negative Declaration reflects the independent judgment of the City of San Diego as Lead Agency;

Stating for the record that the final Negative Declaration has been reviewed and considered prior to approving the project;

Adopting the Final Negative Declaration;

That the slope easement granted to the City of San Diego as described and shown and on file in the Office of the City Clerk, which are by reference incorporated herein and made part hereof, is ordered vacated;

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits attested by her under seal, to be recorded in the Office of the County Recorder.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approve a Tentative Map to create five lots and a vacation of a slope easement along portions of 66th Street, within the Encanto Neighborhoods area of the Southeastern San Diego Community Plan area.

STAFF'S RECOMMENDATION:

APPROVE Tentative Map No. 9000 and Slope Easement Vacation No. 407882.

EXECUTIVE SUMMARY:

The project is a Tentative Map to create five residential lots on a vacant 1.05-acre site, and a vacation of an existing slope easement. The proposed project is located on the west side of 66th Street, between Cielo Drive and Leghorn Avenue, in the SF-5000 zone, in the Encanto Community Planning Area within the Southeastern San Diego Planned District.

The Tentative Map is required to create the proposed five lots. The lots vary in size from 8,122 square feet to 10,131 square feet. No development is proposed for the lots at this time. Staff has reviewed the Tentative Map and has found that it complies with all California Map Act regulations and all Land Development Code requirements.

Staff has also reviewed the project and determined that the slope easement along 66th Street in front of the project is no longer required. The slope easement was originally reserved for construction of 66th Street. Since 66th Street has been constructed, the easement is no longer needed.

Storm water runoff from the project would not discharge over the slope, would now be collected at the toe of the slope, and discharged into a drainage inlet on Skyline Drive. City staff has analyzed the drainage system and determined that the inlet would have sufficient drainage capacity.

The proposal would include construction of a non-contiguous sidewalk along the project's frontage. As a result, a dedicated 12-foot wide parkway, with a five-foot wide general utility easement would be provided by the applicant. The project would also be responsible for half-width street improvements along 66th Street.

To approve the requested slope vacation, the following four findings must be made.

1. There is no present or prospective use for the purpose for which the right of way was originally acquired.
2. The public will benefit from the vacation through improved utilization of land.
3. The vacation is consistent with the General Plan or an approved Community Plan.
4. The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

City staff has confirmed that there is no present or prospective use for the slope easement for which it was originally acquired and that no public use of a like nature is anticipated. The slope easement was originally reserved for construction of 66th Street. The street has been constructed, and, therefore, the slope easement is no longer needed. The neighborhood would be improved as this vacant lot would now become buildable, and curb, gutter and sidewalk would be constructed along 66th Street, where none exists today. In addition, the slope easement vacation would result in improved utilization of the land.

FISCAL CONSIDERATIONS:

No cost to the City. A deposit has been collected from the applicant to cover the costs associated with processing the proposed projects.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The slope easement is being vacated summarily with no Planning Commission recommendation.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On July 17, 2006, the Encanto Neighborhoods Community Planning Group voted 13-0-0 in favor of the Tentative Map and Easement Vacation, with no recommendations.

Waring/Escobar-Eck/MD

LEGAL DESCRIPTION:

The project site located on the west-side of 66th Street, between Cielo Drive and Leghorn Avenue, in the Southeastern San Diego Planned District of the Encanto Community Planning area, Lot 11 of Encanto, Map 749.

Staff: Morris Dye – (619) 446-5201
David Miller – Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: F-10040

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30;
3:45p.m. – 3:46 p.m.)

MOTION BY YOUNG TO ADOPT. Second by Hueso. Passed by the following vote:
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-not present, Hueso-yea.

ITEM-335: Two actions related to Amendments to Affordable Housing Density Bonus.

Matter of approving, conditionally approving, modifying or denying an ordinance that would amend the Land Development Code regulations in Chapter 12, Article 6, Division 7; Chapter 14, Article 1, Division 3; and Chapter 14, Article 1, Division 7, all related to Affordable Housing Density Bonus. The City Council

will also consider a resolution to certify that the information contained in the Supplement to Environmental Impact Report No. 96-0333 (Project No. 63422), has been completed in compliance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines, and that said Supplement reflects the independent judgment of the City of San Diego as Lead Agency, stating for the record that the final Supplement to EIR No. 96-0333 has been reviewed and considered prior to approving the project, certifying the final Supplement to EIR No. 96-0333, and adopting the Findings and Statement of Overriding Considerations.

The proposed amendments to the Land Development Code would apply to the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on the amendments to the Land Development Code and associated Local Coastal Program amendments will be with the California Coastal Commission. The City of San Diego must submit the amendments to the Land Development Code as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment.

If you wish to be noticed of the Coastal Commission hearing on this issue, you must submit a request in writing to the Development Services Department, Attention: Dan Joyce, Senior Planner, 1222 First Avenue, MS 501, San Diego, CA 92101 before the close of the City Council public hearing. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

In accordance with the California Coastal Act and Guidelines, if you wish to review a draft of the amendment language or have any questions, you can contact the City Project Manager listed above.

((See Report to the City Council No. 07-021 and City Attorney memorandum dated February 23, 2007. SEIR No. 96-0333/Project No. 63422. Citywide.))

(Continued from the meeting of January 30, 2007, Item 331, at the request of Councilmember Frye, for further review.)

STAFF'S RECOMMENDATION:

Adopt the resolution in Subitem A and introduce the ordinance in Subitem B:

Subitem-A: (R-2007-698)

CONTINUED TO TUESDAY, MARCH 27, 2007

Adoption of a Resolution certifying that Supplement to the Environmental Impact Report No. 96-0333, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of Environmental Impact Report No. 96-0333;

That pursuant to California Code of Regulations Section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference, with respect to the project;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: CONTINUED TO TUESDAY, MARCH 27, 2007

Option 1 To view ord. please click:

<http://clerkdoc.sannet.gov/legtrain/Dockets/dkt20070227Option1>

(O-2007-40 Cor. Copy 1)

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 14, Article 3, Division 7, Sections 143.0710, 143.0715, 143.0720, 143.0725, 143.0730, 143.0740, and 143.0750, and deleting Section 143.0760; By amending Chapter 12, Article 6, Division 7, Section 126.0708, and amending Chapter 14, Article 1, Division 3, by amending Section 141.0310(b), all relating to the Affordable Housing Density Bonus Regulations.

OR

Option 2 To view ord. please click:

<http://clerkdoc.sannet.gov/legtrain/Dockets/dkt20070227Option2>

(O-2007-40) **Alternative State Mandated Density Bonus Ordinance.**

Amending Chapter 14, Article 3, Division 7, Sections 143.0710, 143.0715, 143.0720, 143.0725, 143.0730, 143.0740, and 143.0750, and amending Chapter 14, Article 1, Division 3, by amending Section 141.0310(b), all relating to the Affordable Housing Density Bonus Regulations.

OTHER RECOMMENDATIONS:

Planning Commission on October 12, 2006, voted 5-0-0 recommend approval with additional recommendations added to the conditions; was opposition.

Ayes: Naslund, Garcia, Schultz, Griswold, Ontai

Not present: Chase, Otsuji

This is a matter of City-wide effect. The following community group has taken a position on the item:

Opposed: Community Planners Committee (CPC) – (minutes of February 22, 2005) The Committee recommended the regulations be written to implement only the state requirements and did not support the City-initiated amendments.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Approval of amendments to the Land Development Code related to the City's Affordable Housing Density Bonus Regulations.

STAFF RECOMMENDATION:

1. **CERTIFY** Supplement to Environmental Impact Report No. 96-0333 (Project 63422) and adopt the Findings and Statement of Overriding Considerations.
2. **APPROVE** the amendments to the Land Development Code and the City's Local Coastal Program related to the City's Affordable Housing Density Bonus Regulations (Chapter 12, Article 6, Division 7; Chapter 14, Article 1, Division 3; and Chapter 14, Article 3, Division 7).

EXECUTIVE SUMMARY:

State law requires cities in California to grant density bonuses and development incentives to residential projects when restrictions are implemented to maintain specified affordability levels. San Diego's Municipal Code includes Affordable Housing Density Bonus regulations. However, the state has amended its affordable housing density bonus three times since 2003 with the latest amendment being implemented in January 2006. The draft regulations are intended to bring the City's regulations into compliance with current state requirements. The draft regulations also include two City-initiated amendments.

The two City-initiated amendments are a density bonus incentive for applicants that satisfy required inclusionary housing onsite rather than through payment of an in-lieu fee, and an increase to the minimum density bonus for projects that provide moderate income for-sale housing.

There are two alternative actions for consideration. First, the Council may adopt the state mandated density bonus regulations and deny or modify the City-initiated density bonus incentives and still be in compliance with state mandates. Second, the Council may deny and/or modify the state mandated provisions of the regulations. However, this action would cause the regulations to be out of compliance with state law.

FISCAL CONSIDERATIONS:

The costs of processing this amendment are shared by the City Planning and Community Investment Department which is funded through the general fund and the Development Services Department Code Update Section which is funded as an overhead expense in the Development Services Department's budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On May 11, 2005, the Land Use & Housing Committee voted to accept the proposed ordinance. The Committee asked that clarification be provided regarding the approval process and findings; that Intergovernmental Relations Department bring state legislation affecting local housing and land use policy to the attention of the Committee for possible review and comment prior to adoption by the state or federal legislatures; and that projects using density bonus be tracked to identify which projects take advantage of the density bonus program, the number of incentives each uses, where the projects are located, and to what extent they rely on state versus local elements of the program.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 12, 2006, the Planning Commission voted 5-0-0 to recommend approval of staff recommendation with direction to investigate issues related to additional reductions in parking,

to simplify the regulations, to track the use of the program, to consider expanding the incentive program, and to remove the option of the in-lieu fee in the Inclusionary Housing Ordinance.

On April 8, 2005, the Housing Commission voted 4-0-0 to recommend approval of staff recommendation while stating that the primary goal should be to provide incentives for low and very low income housing.

On April 12, 2006, Code Monitoring Team voted 6-0-1 to recommend approval of staff recommendation.

On March 9, 2005, the Technical Advisory Committee voted 7-0-0 to recommend approval of staff recommendation with four recommendations.

On February 22, 2005, the Community Planners Committee voted 11-1-0 to oppose staff recommendation and to recommend the regulations be revised to include only the state requirements.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Key stakeholders include advocates for affordable housing and the building industry. The environmental document has identified potential for impacts to visual quality, transportation, and parking; and cumulative impacts to visual quality and parking.

Waring/McCullough /DJ

LEGAL DESCRIPTION:

The regulations are intended to apply City-wide; however, until approved by the Coastal Commission, only the existing State Density Bonus Law would apply in the Coastal Zone.

Staff: Dan Joyce – (619) 446-5388
Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:23 p.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 27, 2007. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-336: Two actions related to the Scripps Miramar Ranch Public Facilities Financing Plan, Fiscal Year 2007.

(See Report to the City Council No. 07-038-Rev. Scripps Miramar Ranch Public Facilities Financing Plan, Fiscal Year 2007 Draft. Scripps Miramar Ranch Community Area. District 5.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2007-786) ADOPTED AS RESOLUTION R-302405

Approving the document entitled "Scripps Miramar Ranch Public Facilities Financing Plan and Facilities Benefit Assessment."

Subitem-B: (R-2007-788) ADOPTED AS RESOLUTION R-302406

Resolution of Intention to designate an area of benefit in Scripps Miramar Ranch and setting the time and place for holding a public hearing thereon.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 01/17/2007, LU&H voted 4-0 to approve the staff's recommendation.
(Councilmembers Atkins, Young, Madaffer, and Hueso, voted yea.)

SUPPORTING INFORMATION:

REQUESTED ACTION:

Council authorization to approve the Scripps Miramar Ranch Public Facilities Financing Plan, Fiscal Year 2007; adopt a Resolution of Intention to designate an area of benefit; adopt a Resolution of Designation; approve the setting of Development Impact Fees (DIF) consistent with the Facilities Benefit Assessments (FBA) in Scripps Miramar Ranch; and authorize the City Auditor and Comptroller, upon the direction of the Financial Management Director, to modify individual Capital Improvement Program project budgets in accordance with the Council approved update to the Financing Plan.

STAFF RECOMMENDATION:

Approve the Scripps Miramar Ranch Public Facilities Financing Plan -Fiscal Year 2007; rescind the existing Facilities Benefit Assessments and Development Impact Fees and establish new Facilities Benefit Assessment and Development Impact Fees for Scripps Miramar Ranch.

EXECUTIVE SUMMARY:

The Public Facilities Financing Plan details the public facilities that will be needed for the ultimate development of the Scripps Miramar Ranch community, which is presently estimated to occur in the year 2011. This plan revises and updates the Fiscal Year 2005 Financing Plan (R-299740 dated October 11, 2004). The objective of the FBA program is to insure that sufficient funds will be available to construct those needed facilities. The FBA will be collected at the building permit issuance stage of development and deposited into a special interest earning fund for Scripps Miramar Ranch.

A significant change in the financing strategy for Scripps Miramar Ranch is taking place with this update. Historically, the Scripps Miramar Ranch FBA had funded transportation, fire and library projects, while park projects were funded by the Scripps Ranch Special Park Fee (SPF). The authority to collect a separate SPF is no longer in the Municipal Code. Therefore, all new park projects, and cost increases to existing park projects, are now included in the FBA, as applicable. Any new residential project will now pay an all inclusive FBA, instead of an FBA and a separate SPF.

There are significant increases in park project cost estimates since the last Financing Plan update. Currently, no basis has been developed for charging non-residential development for park and library projects. Therefore, these park increases will be spread across the remaining residential development only. Due to the limited amount of remaining residential development in Scripps Miramar Ranch, the resulting FBA rates for residential units have increased significantly.

The proposed assessments for Fiscal Year 2007 are as follows:

LAND USE	CURRENT ASSESSMENT	PROPOSED ASSESSMENT PER UNIT/ACRE in FY 2007 DOLLARS
SINGLE FAMILY	\$4,912	\$26,125
MULTI-FAMILY	\$3,438	\$18,288
COMMERCIAL ACRE	\$96,956	\$102,253
INDUSTRIAL ACRE	\$58,448	\$61,642
INSTITUTIONAL ACRE	\$33,448	\$35,276

FISCAL CONSIDERATION:

Adoption of this revised Public Facilities Financing Plan will continue to provide a funding source for the public facilities identified in the Scripps Miramar Ranch Financing Plan.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Public Facilities Financing Plan was unanimously approved at the Land Use & Housing Committee meeting on January 17, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Scripps Ranch Planning Group unanimously approved the Public Facilities Financing Plan on January 4, 2007, by a vote of 17-0.

KEY STAKEHOLDERS AND PROJECTED IMPACTS :

All property owners with remaining new development are listed on the Scripps Miramar Ranch Public Facilities Financing Plan - Fiscal Year 2007 Assessment Roll, page 90, and will have received notice and a copy of this document in the mail. These property owners will have liens placed on their property and will be required to pay Facilities Benefit Assessments upon any building permit issuance when developing their property. Any redevelopment which increases the intensity of existing uses may be subject to an impact fee per Attachment 2.

Waring/Anderson/FVJ/AA

Staff: Angela Abeyta – (619) 533-3674
Brant C. Will - Deputy City Attorney

FILE LOCATION: STRT-FB-11 (33)

COUNCIL ACTION: (Time duration: 2:30 p.m. – 2:30 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 4:15 p.m. in honor of the memory of:

Tim Rutherford as requested by Council Member Faulconer;
William Postel as requested by Council Member Maienschein; and
Lawrence J. Fogel as requested by Council President Peters.

FILE LOCATION:

MINUTES

COUNCIL ACTION:

(Time duration: 4:09 p.m. – 4:15 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

000203

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR SPECIAL COUNCIL MEETING
OF
MONDAY, MARCH 5, 2006
AT 10:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:04 a.m. The meeting was adjourned by Council President Peters at 11:57 a.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present

- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-not present

FILE LOCATION: MINUTES

ITEM-601: Informational Report on Financial Disclosure Training for the City Council.

INDEPENDENT BUDGET ANALYST'S RECOMMENDATION:

Hear informational report on City Council Financial Disclosure Training.

HEARING HELD

SUPPORTING INFORMATION:

On October 11, 2004, the City adopted the Disclosure Ordinance (Ordinance No. O-19320) which required "mandatory training, on a regular basis, for City staff, officials, City Council members, and the Mayor regarding their obligations relating to disclosure matters under federal and state securities laws." On December 6, 2006, the City Council adopted Resolution R-302243 implementing a plan to provide financial training to the City Council as recommended by the Kroll Report and the Independent Budget Analyst. The City Council will receive training with respect to its disclosure obligations under federal securities laws at 10:00 a.m. on March 6, 2007. The training will be provided by John McNally of Hawkins, Delafield & Wood LLP (Disclosure Counsel to the City) with assistance from the City Attorney's Office.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:04 a.m. – 11:56 a.m.)

NON-DOCKET ITEMS:

None.

000205

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ADJOURNMENT:

The meeting was adjourned by Council President Peters at 11:57 a.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:57 a.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, MARCH 5, 2007
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:04 p.m. Council President Peters recessed the meeting at 3:42 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:49 p.m. with all Council Members present. Council President Peters recessed the meeting at 4:01 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:05 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 4:22 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (gs)

FILE LOCATION: MINUTES

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ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-not present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Pastor Scott Furrow of the First Baptist Church of San Diego.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council President Pro Tem Young.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-1 *Friends of Rose Canyon et al. v. City of San Diego*
San Diego Superior Court Case No. GIC 874140

Las Palmas Condominium Owners' Association et al. v. City of San Diego
San Diego Superior Court Case No. GIC 872000

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 6, 2007

DCA Assigned: C. Brock

The above lawsuits arises from the City Council's certification of the Environmental Impact Report ("EIR") for the University City North/South Transportation Corridor Study, Project No. 27445 ("Project"), the adoption of findings and statements of overriding considerations related to the EIR, and the Council's legislative decision to approve and direct staff to implement the Regents Road Bridge Alternative and undertake the implementation of an amendment to the University City Community Plan to delete the Genesee Road widening alternative. A clarifying resolution will be discussed, as well as Petitioners' most recent settlement proposal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. – 3:49 p.m.)

Council President Peters closed the hearing.

CS-2 *Estate of Beatrice Maidson, et al. v. City of San Diego*
San Diego Superior Court Case No. GIC 857262

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 6, 2007

DCA Assigned: R. Walters

This lawsuit arises out of a traffic accident which occurred at the intersection of Pershing Drive and Jacaranda Place. Plaintiffs allege that the intersection was a dangerous condition which was a cause of the accident. In closed session the City Attorney will discuss the status of the lawsuit.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. – 3:49 p.m.)

Council President Peters closed the hearing.

**CS-3 *Greg Spencer, et al., vs. City of San Diego, et al.*
U.S. District Court Case No.: 04cv2314-BEN (WMc)**

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 6, 2007

DCA Assigned: C. Morris, Assistant City Attorney; D. Bamberg; and J. Riley

In closed session, the City Attorney will advise the Council on the status of this litigation and will recommend a possible settlement of the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. – 3:49 p.m.)

Council President Peters closed the hearing.

**CS-4 *La Playa View Holdings, LLC, et al. v. City of San Diego*
San Diego Superior Court Case No. GIC 843584**

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 6, 2007

DCA Assigned: M. Dickenson

000211

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This matter is a quiet title action brought by certain landowners in the La Playa area of the City. The City Attorney will update the Mayor and City Council on the status of the litigation in closed session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. – 3:49 p.m.)

Council President Peters closed the hearing.

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code Section 54956.9(b):

**CS-5 *AFSCME Local 127 v. City of San Diego*
Unfair Practice Charge No. LA-CE-352-M**

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 6, 2007

DCA Assigned: D Buljat

In closed session the City Attorney will report on the unfair practice charge filed on February 13, 2007, by AFSCME Local 127 with the Public Employment Relations Board and seek authority to retain outside counsel.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. – 3:49 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-6 Agency Negotiator: Scott Chadwick, J. Rod Betts, Lisa Briggs, Rich Snapper, Jessica Falk Michelli, William Gersten, and Debora Buljat

Employee Organizations: Local 145 International Association of Firefighters AFL-CIO, San Diego Police Officers Association, and Deputy City Attorney Association

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 6, 2007

DCA Assigned: W. Gersten/D. Buljat

Discuss with Council pending substantive negotiations with employee unions (Police Officers Association, International Association of Firefighters Local 145, and the Deputy City Attorney's Association).

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. – 3:49 p.m.)

Council President Peters closed the hearing.

ITEM-200: Independent Oversight Monitor Status Report.

MAYOR SANDERS' RECOMMENDATION:

Take the following action:

HEARING HELD; REPORT RECEIVED

Hear informational report from Stanley Keller, the Independent Oversight Monitor.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:41 p.m. – 3:15 p.m.)

MOTION BY MADAFFER TO RECEIVE THE REPORT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-201: Kroll Remediation Status Report Number 4 and Related Action.

(See memorandums from Mayor Sanders dated 2/21/2007 and Jay Goldstone dated 2/21/2007.)

MAYOR SANDERS' RECOMMENDATION:

Take the following actions:

HEARING HELD; REPORT RECEIVED; DIRECTION GIVEN

1. Hear fourth informational update report on the Kroll remediation; and
2. Directing the City Attorney to prepare an Ordinance amending the Municipal Code¹ consistent with the following changes:
 - The Chief Financial Officer will serve as the Chair of the revised Disclosure Practices Working Group (DPWG).
 - Membership in the DPWG will consist of the following five official voting members: Chief Operating Officer, Chief Financial Officer, City Attorney, Auditor General, and Independent Budget Analyst (or designees). Outside disclosure counsel serves as an ex-officio member.
 - No DPWG committee member (including the Chair) can prevent any other committee member from placing an item on the agenda.
 - The DPWG to meet periodically (on an as-needed basis) with the City's Audit Committee.

¹ San Diego Municipal Code, Chapter 2: Government, Article 2, Administrative Code, Division 41: Securities Disclosure.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:15 p.m. – 3:41 p.m.)

MOTION BY ATKINS TO RECEIVE THE REPORT WITH DIRECTION TO REFER TO THE INDEPENDENT BUDGET ANALYST'S COMMENTS ON PENSION OPTION TO BE PART OF THIS REPORT AND INCLUDE THE RECOMMENDATION THAT INTERIM OR TEMPORARY BE DROPPED FROM REFERENCES TO AUDIT COMMITTEE PROVIDE INFORMATION ON PROFESSIONAL STANDARDS FOR AUDITING TO THE CHARTER REVIEW PROCESS. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

MOTION BY ATKINS TO CONTINUE THE PORTION OF ITEM 201 RELATED TO THE DISCLOSURE PRACTICES WORKING GROUP (DPWG) TO MONDAY, APRIL 9, 2007. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-202: Amendments to the Appropriations Ordinance, Repeal of BPR Ordinance, and Resolutions to Clarify Budget Process Requirements.

(See Independent Budget Analyst Reports No. 07-13, 07-19, 07-22, and 07-23.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 2/5/2007, Item 200, Subitem A. (Council voted 5-3. Council President Peters, Councilmembers Faulconer, and Maienschein voted nay):

(O-2007-90 Rev. Copy) CONTINUED TO TUESDAY, MARCH 27, 2007

Amending Ordinance No. O-19522 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2006-2007 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year," by *amending Paragraph 14 thereof with respect to business process reengineering and other matters connected therewith.*

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:06 p.m. – 2:41 p.m.)

MOTION BY YOUNG TO CONTINUE TO TUESDAY, MARCH 27, 2007, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-203: Amendments to the San Diego Municipal Code Eliminating the “Waterfall” as Codified in San Diego Municipal Code Section 24.1502 and as Referred to in Sections 24.1501, 24.1503, 24.1504, and 24.1507.

(See Report from the City Attorney dated 2/2/2007.)

CITY ATTORNEY’S RECOMMENDATION:

Introduce the following ordinance:

(O-2007-93) INTRODUCED, TO BE ADOPTED ON TUESDAY,
MARCH 27, 2007

Introduction of an Ordinance amending Chapter 2, Article 4, Division 15, of the San Diego Municipal Code, by repealing Section 24.1502, and amending Sections 24.1501, 24.1503, 24.1504, and 24.1507, all relating to the “Waterfall”.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:49 p.m. – 4:21 p.m.)

MOTION BY FRYE TO INTRODUCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-250: **Notice** of Pending Final Map Approval – 4224 46th Street Condominiums.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4224 46th Street Condominiums” (T.M. No. 130866/PTS No. 76727), located on the

west side of 46th Street between Orange Avenue and El Cajon Boulevard in the Mid-City: City Heights Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 4:22 p.m. in honor of the memory of:

Jim Magot as requested by Council Member Faulconer.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 4:21 p.m. – 4:22 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

000218

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR THE ADJOURNED REGULAR COUNCIL MEETING
OF
MONDAY, FEBRUARY 13, 2007
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Present: None.

Not Present: Council Members Peters, Faulconer, Atkins, Young, Maienschein, Frye,
Madaffer, Hueso.

Clerk: Levenson-Cruz.

The City Council meeting of Tuesday, February 13, 2007, has been adjourned, pursuant to 2007 Legislative Calendar, adopted by Resolution R-302134 on November 28, 2006.

The meeting of Monday, February 19, 2007, will be held in conjunction with the regularly scheduled meeting of Tuesday, February 20, 2007. (The Closed Session Agenda for Tuesday, February 20, 2007, will commence immediately following the conclusion of the regular open session meeting.)

Elizabeth S. Maland, City Clerk
City of San Diego

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, MARCH 6, 2007
AT 10:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:05 a.m. Council President Peters recessed the meeting at 11:00 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:05 a.m. with all Council Members present. The meeting was recessed by Council President Peters at 11:47 a.m.

The meeting was reconvened by Council President Peters at 2:04 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:13 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:18 p.m. with Council Member Faulconer not present. Council President recessed the meeting at 4:39 p.m. for the purpose of a break. Council President Pro Tem Young reconvened the meeting at 4:43 p.m. with Council President Peters not present. The meeting was adjourned by Council President Pro Tem Young at 4:43 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (sr/dlc)

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FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Judy McCarty commented on changing administrative regulations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:27 a.m. – 10:29 a.m.)

PUBLIC COMMENT-2:

Barbara Cleves Anderson commented on Dale Shockley and changing administrative policy.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. – 10:31 a.m.)

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PUBLIC COMMENT-3:

Al Strohlein commented on alcohol in Pacific Beach.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:34 a.m.)

PUBLIC COMMENT-4:

Theresa Quiroz commented on Closed-Door Policies.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:35 a.m. – 10:37 a.m.)

PUBLIC COMMENT-5:

Don Stillwell commented on violations of the Brown Act.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:40 a.m.)

PUBLIC COMMENT-6:

Ron Boshun commented on Council Actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:43 a.m.)

PUBLIC COMMENT-7:

Carolyn Chase commented on Government Mottos.

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FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:47 a.m.)

PUBLIC COMMENT-8:

Phil Hart commented on internal auditing in the City.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. – 10:51 a.m.)

PUBLIC COMMENT-9:

Jim Varnadore commented on the Regional Transportation Plan and widening Euclid Avenue.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. – 10:53 a.m.)

PUBLIC COMMENT-10:

Jarvis Ross commented on the transparency of government actions and the public.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. – 10:56 a.m.)

PUBLIC COMMENT-11: **REFERRED TO CITY ATTORNEY'S OFFICE**

Katheryn Rhodes commented on the 30-foot height limit.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. – 10:59 a.m.)

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COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Frye acknowledged Victor in the audience and wished him a happy birthday back in February. Council Member Frye also received a fax from Randy Burkman regarding FEMA issues and referred this item to the City Attorney's Office.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:06 a.m. – 11:07 a.m.)

CITY ATTORNEY COMMENT:

None.

ITEM-30: Energy Efficiency Awareness Week.

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-789) ADOPTED AS RESOLUTION R-302407

Reaffirming the City of San Diego's partnerships with the U.S. Department of Energy, Environmental Protection Agency, U.S. Green Building Council, California Flex Your Power, and San Diego Gas & Electric for the purpose of creating a sustainable future that supports environmental quality, economic security and quality of life for all;

Proclaiming March 4th through March 10th, 2007 to be "Energy Efficiency Awareness Week" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:12 a.m.)

MOTION BY FAULCONER TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-31: Carolyn D. Chase Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-776) ADOPTED AS RESOLUTION R-302408

Commending Carolyn Chase for the many hours of community volunteer work that she has given the City of San Diego;

Proclaiming March 6, 2007, to be "Carolyn D. Chase Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:12 a.m. -- 10:25 a.m.)

MOTION BY FRYE TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-50: Appropriation of Fiscal Year 2007 Proposition 42 Funds and Inviting Bids for the Asphalt Overlay Group II, FY 07.

(Districts 2, 3, 4, 7, and 8.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 2/20/2007, Item 60, Subitem A. (Council voted 7-0. Councilmember Madaffer not present):

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(O-2007-92 Cor. Copy) ADOPTED AS ORDINANCE O-19580
(New Series)

Amending Ordinance No. O-19522 entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2006-2007 and Appropriating the Necessary Money to Operate the City of San Diego for said Fiscal Year," by accepting and appropriating an additional \$4,513,653 in by accepting Proposition 42 Motor Vehicle Fuel Tax Revenue from the State of California and increasing the appropriation in the General Fund in an amount not to exceed \$6,037,844 for Streets Division Operating Budget.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-51: Exempting the Program Manager Position from Classified Service.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 2/20/2007, Item 52. (Council voted 7-0. Councilmember Madaffer not present):

(O-2007-95) ADOPTED AS ORDINANCE O-19581 (New Series)

Exempting the position of Program Manager for the Debt Management Department from the classified service and declaring to be in the unclassified service of the City of San Diego, pursuant to Section 117(a)17 of the City Charter, after having been reviewed and commented upon favorably by the Civil Service Commission on January 11, 2007, as meeting the Charter criterion for exemption from the classified service, and after having considered and reviewed the memorandum from the Personnel Director to the Mayor and Council dated January 12, 2007.

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FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-52: Lease Purchase Agreement with Koch Financial Corporation for the Acquisition of Motive and Public Safety Equipment.

(See Report to the City Council No. 07-045. Citywide.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2007-104) INTRODUCED, TO BE ADOPTED ON
TUESDAY, MARCH 20, 2007

Introduction of an Ordinance authorizing the Mayor, or the Chief Financial Officer, to execute, for and on behalf of the City of San Diego, a Master Lease Agreement with Koch Financial for a period not to exceed seven years for the purpose of financing and refinancing the acquisition of equipment through lease-purchase. The Master Lease Agreement shall be in substantially the form presented to this Council, with such additions and changes therein as the Mayor, or the Chief Financial Officer, shall, in consultation with the City Attorney, shall approve as being in the best interest of the City; provided however that (i) the acquisition cost of the equipment under the Master Lease Agreement shall not exceed \$14.6 million (comprised of \$11.6 million for the motive equipment and \$3.0 million for the Public Safety Communication's equipment), (ii) the term of any equipment lease shall not exceed seven (7) years (iii) the interest rate on any such equipment shall not exceed the maximum limit permitted by law and (iv) the City Auditor and Comptroller certifies, as required by City Charter Section 39, that funds are available to make lease payments under the Master Lease Agreement.

NOTE: 6 votes required.

STAFF SUPPORTING INFORMATION:

The City is seeking to finance, via a master lease-purchase agreement, the acquisition of motive and public safety equipment. A request for proposals ("RFP") was issued through the City's Purchasing Division on January 9, 2007, to solicit financing proposals for the motive equipment and Enterprise Resource Planning System¹. Koch was the sole bidder to finance the motive equipment acquisition. Staff considers the rate quoted by Koch to be competitive, while adhering to the stringent conditions set forth in the RFP and given the City's inability to produce audited financial statements. Subsequently, staff was advised of the need to finance the last segment of the City's Public Safety Communications project, in an amount of approximately \$3 million.

Due to the fact that Koch was the sole respondent to the RFP for the motive equipment and their rate was competitive, staff inquired with, and it was accepted by Koch, to finance this additional project, under the same terms and conditions spelled out in its RFP response.

FISCAL CONSIDERATIONS:

Motive Equipment (Estimated)

Total proposed acquisition totaling \$11.6 million

Portion to be financed on a 7-year term: \$10,944,420 @ 4.30%

Portion to be financed on a 5-year term: \$618,000 @ 4.28%

FY07: No fiscal impact.

FY08: \$2,027,200 (including one semi-annual payment of \$978,000, sales tax totaling \$896,100 sales tax and \$153,100 in fitting costs.

FY09-FY12: \$1,957,000 each year

FY13: \$1,887,000

FY14: \$1,818,000

FY15: \$909,000

Public Safety Equipment (Estimated)

Total proposed acquisition of \$3 million financed over seven years @ 4.30%

FY07: No fiscal impact.

FY08: \$436,000 (including one semi-annual payment of \$250,000 and \$186,000 in sales tax cash funded)

FY09-FY14: \$501,000 each year

FY15: \$250,000

PREVIOUS COUNCIL/COMMITTEE ACTIONS:

The current contract in place for the acquisition of motive equipment was established by a competitive bid process, and was adopted by the City Council on December 1, 2003 in Resolution # R-298641. Ordinance O-19458 was adopted on January 17, 2006, authorizing the contract with Motorola to supply and integrate the upgraded safety communications equipment.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

A contract totaling \$14.6 million for the financing of motive equipment and public safety equipment will be with Koch Financial Corporation.

Kommi/Goldstone

¹ The City issued an RFP to solicit financing proposals for 2 separate projects – acquisition of motive equipment and implementation of the Enterprise Resource Planning System. The financing proposal being brought forward for City Council approval at this time is for the acquisition of motive equipment.

Staff: Jyothi Pantulu - (619) 236-6917
Mark D. Blake – Chief Deputy City Attorney

FILE LOCATION: PURCHASE

COUNCIL ACTION: (Time duration: 11:07 a.m. – 11:23 a.m.;
11:25 a.m. – 11:47 a.m.)

MOTION BY MADAFFER TO INTRODUCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

* ITEM-100: Lease Agreement with San Diego Unified School District for Use and Rental of City of San Diego Swimming Pools.

(Allied Gardens, City Heights, Clairemont, Colina Del Sol, Kearny Mesa, Logan Heights, Mira Mesa, North Park, Tierrasanta, and Valencia Park Community Areas. Districts 1, 3, 4, 5, 6, 7, and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-125) ADOPTED AS RESOLUTION R-302409

Authorizing the Mayor, or his representative, to execute, for and on behalf of the City, a Five Year Lease Agreement with the San Diego Unified School District for the use and rental of the following City owned swimming pools: Allied Gardens, City Heights, Clairemont, Colina Del Sol, Bud Kearns, Kearny Mesa, Martin Luther King Jr., Memorial, Ned Baumer, Swanson and Tierrasanta Community Pool, under the terms and conditions set forth in the Lease Agreement;

Declaring this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), as defined by the State CEQA Guidelines.

STAFF SUPPORTING INFORMATION:

As far back as 1975, there has been an agreement between the City of San Diego and the San Diego Unified School District for the use of City of San Diego swimming pools in order to assist the District in providing both swimming and water polo programs. This has been mutually beneficial in that we provide the facilities for their programs and many of the students who train at our sites often become City of San Diego Pool Guards. The Board of Education approved this agreement at its regularly scheduled meeting on May 9, 2006.

FISCAL CONSIDERATIONS:

Per agreement the District will pay the City of San Diego a monthly rental fee (listed in Exhibit 1) for the use of the facilities. This revenue will be deposited into the General Fund 100. In Fiscal Year 2005 the total revenue received was \$81,267.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Stakeholders: CD-1, CD-3, CD-4, CD-5, CD-6, CD-7, and CD-8 constituents.

Impact: San Diego Unified School District will be able to offer instructional swimming programs.

Medina/Martinez

Staff: Isabel Vargas - (619) 685-1308
Alex Sachs - Deputy City Attorney

FILE LOCATION: LEAS – SAN DIEGO UNIFIED SCHOOL DISTRICT

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-101: FY 2007 Agreement with Hillcrest Business Association.

(Uptown Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-775) ADOPTED AS RESOLUTION R-302410

Authorizing the Mayor to execute, on behalf of the City of San Diego, an agreement with the Hillcrest Business Association for administration of Contracts for Goods and Contracts for Services for the Hillcrest Commercial Core Maintenance Assessment District (MAD) for a one year period from July 1, 2006 through June 30, 2007, in accordance with San Diego Municipal Code Section 65.0212;

Reimbursing the Hillcrest Business Association for an amount not to exceed 15% or \$8,995 for administration of the Hillcrest Commercial Core MAD, provided that the City Auditor and Comptroller provides one or more Auditor's Certificates certifying that said funds are available for reimbursement from the Hillcrest Commercial Core MAD account;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed 4% or \$3,598 from the Hillcrest Commercial Core MAD account to Fund 70267 to cover City administrative fees for the District;

Declaring that the expenditure of funds from Fund 70267 be increased to not to exceed \$199,093 in Fiscal Year 2007 in conformance with the above action.

STAFF SUPPORTING INFORMATION:

The San Diego Municipal Code allows non-profit corporations to administer MADs when an assessment weighted majority of district property owners support the selection of a particular non-profit corporation for their district. The San Diego Municipal Code Section 65.0212 paragraph (b)(2), authorizes the City Council to approve a one year Agreement with non-profit corporations to administer the Contracts for Goods and Contracts for Services in Maintenance Assessment Districts ("MADs").

The property owner selected the Hillcrest Business Association, non-profit corporations ("Association") to manage the annual Agreement from July 1, 2006 through June 30, 2007. This action will authorize the Mayor to execute an Agreement between the City and the Association for a period of one year beginning on July 1, 2006 and ending on June 30, 2007. The Agreement provides the following:

1. The Association will administer Contracts for Goods and Contracts for Services and prepare financial statements for their respective Districts as provided for in the Maintenance Assessment District Ordinance, Landscape and Lighting Act of 1972, and as set forth in the Assessment Engineer's Report for the Hillcrest Commercial Core Maintenance Assessment District.
2. The Association will perform all duties as set forth in each of their respective Agreement under Article I, Section B, referred to as Specific Requirements.
3. The Association will be compensated for administration in an amount not to exceed 15% of the total approved assessments for FY07. Projected total annual assessments for the following Maintenance Assessment District in FY07 is \$89,950.

This action will also authorize the transfer of \$3,598 to Fund 70267 to fund City administration (by the Economic Development Division of the City Planning and Community Investment Department) of the Hillcrest Commercial Core self-managed MAD for Fiscal Year 2007. Currently the total approved expenditures for City Admin is \$195,495 and includes six other assessment districts. This action will bring the total funding for MAD and PBID administration by Economic Development Division to an amount not to exceed \$199,093 in Fiscal Year 2007. City administrative fees in self-managed maintenance assessment districts range from a minimum of \$3,500 to a maximum of 4% of total assessments and will be used to fund engineering, auditing, payment processing, budgeting and other services related to the administration of each district.

<u>District</u>	<u>Assessment Amount</u>	<u>Non-Profit Administration Fee</u>	<u>City Administration Fee</u>
Hillcrest Commercial Core MAD	\$89,950	\$8,995	\$3,598
Total	\$89,950		\$3,598

FISCAL CONSIDERATIONS:

Under the terms of the agreements, the City will be reimbursed \$3,598 for administrative services.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The non-profit business association was approved by benefiting property owners through Proposition 218 ballot procedure and passed by Council action on May 16, 2006 as Item-333 to administer the contracts for goods and services for the District. Per R-301852, on August 8, 2006 the City Council authorized the expenditure of funds in an amount not to exceed \$195,495 from Fund 70267 for City administration of self managed maintenance assessments districts for Fiscal Year 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The District holds regular meetings and publishes regular newsletters which are distributed to the property owners in the respective MADs.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are the business community and the property owners within the self managed districts.

Anderson/Waring

000233

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Aud. Cert. 2700532.

Staff: Luis Ojeda - (619) 533-4246
Alex Sachs - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-102: Regional Interoperable Communications Development Grant Funded Expenditure.

(See Report to the City Council No. 07-044 and COPS Interoperable Communications Technology FY 2004 Program Proposal.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-818) ADOPTED AS RESOLUTION R-302411

Authorizing the Mayor, or his representative, to enter into an agreement with Enforcement Support Agency (ESA) as outlined in the draft Statement of Work;

Authorizing the City Auditor and Comptroller to appropriate and expend \$544,000 in grant funds with ESA in the continuing development, implementation and refinement of this project;

Declaring that the Chief of Police and the Director of the City's Office of Homeland Security are to direct and oversee this expenditure, in compliance with the grant program.

Staff: Kimberly Glenn - (619) 531-2415
John C. Hemmerling - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. -- 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-103: Nomination of Alternate to the North Embarcadero Joint Powers Authority.

(See memorandum from Mayor Sanders and Council President Peters dated 2/9/2007. Citywide.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-795) ADOPTED AS RESOLUTION R-302412

Confirming the appointment by Mayor Jerry Sanders and Council President Peters of Councilmember Ben Hueso, to serve as the alternate to the North Embarcadero Joint Powers Authority Board.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. -- 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-104: Disability Awareness Month.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-783) ADOPTED AS RESOLUTION R-302413

Proclaiming March 2007, to be "Disability Awareness Month" in the City of San Diego and commending The Arc of San Diego for advocating the awareness of and providing services for those with disabilities.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-105: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District 8.).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-652) ADOPTED AS RESOLUTION R-302414

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L - State of Emergency Regarding the Discharge of
Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the
following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea,
Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-106: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable
Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-689) ADOPTED AS RESOLUTION R-302415

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable
Housing in the City of San Diego.

FILE LOCATION: GEN'L - State of Emergency Due to Severe Shortage of
Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the
following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea,
Frye-yea, Madaffer-yea, Hueso-yea.

- ITEM-330: Executive Center Court Public Right-of-Way Vacation.

Matter of approving, conditionally approving, modifying or denying an
application for Executive Center Court Vacation, a Public Street/Right-of-Way
Vacation.

(Project No. 105977/Public Right-of-Way Vacation No. 351846. Otay Mesa Community Plan Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-736) ADOPTED AS RESOLUTION R-302416

Adoption of a Resolution certifying that the Executive Center Court easement located west of Exposition Way, between Heritage Road and Ocean View Hills Parkway, as more particularly described in the legal description marked as Exhibit

"A," and shown on Drawing No. 20551-B, marked as Exhibit "B," and on file in the Office of the City Clerk, which are by this reference incorporated herein and made a part hereof, is ordered vacated;

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits attested by her under seal, to be recorded in the Office of the County Recorder.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Should the City Council approve or deny Public Right-of-Way Vacation No. 351846.

STAFF RECOMMENDATION:

Approve Public Right-of-Way Vacation No. 351846.

EXECUTIVE SUMMARY:

Project Description

The proposed project, requested by the owner of four adjacent parcels, is to vacate the Executive Center Court right-of-way within the Otay Mesa Community Plan area (Attachments 1 and 2). The right-of-way, 64 feet wide and 395 feet long, is located west of Exposition Way between Heritage Road and Ocean View Hills Parkway. The 0.671-acre site was granted on Map No. 15157 on October 27, 2005 and is unimproved. Vehicular access and required utilities to the four parcels will be provided from Exposition Way (Attachment 3).

Regulatory Framework

Land Development Code Sections 125.0901 through 125.0950, and Council Policy 600-15 provide a process for approving applications to vacate excess public rights-of-way provided the City Council makes specific findings (Attachment 4). The four contiguous legal lots have been consolidated by recording a Covenant and Agreement to hold the lots under one ownership and may not be sold separately. There is no present or prospective public use for the right-of-way and ownership will revert to the owner of the consolidated lots. The current Circulation Map of the Transportation Element in the Otay Mesa Community Plan does not include Executive Center Court. The vacation of this excess right-of-way will not adversely affect the Community Plan. The draft Resolution is included as Attachment 5.

PLANNING COMMISSION RECOMMENDATION:

The project is a summary vacation and does not require a Planning Commission recommendation.

FISCAL CONSIDERATIONS:

There is no fiscal impact. The application is processed through a fee paid for by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On August 24, 2006, copies of the application and associated exhibits were distributed to the Otay Mesa Community Planning Group. As of January 12, 2007, no recommendation had been received from the Group.

KEY STAKEHOLDERS AND PROJECTED IMPACTS

Property Owner: PPF Sudberry Ocean View Hills, LP, a Delaware limited partnership - Rich Simons and Candice Todd, Partners.

Waring/Escobar-Eck/BT

NOTE: This activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15301(1), existing facilities.

Staff: Bill Tripp – (619) 446-5273
Kimberly Ann Davies – Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: DEED F-10041

COUNCIL ACTION: (Time duration: 11:24 a.m. – 11:24 a.m.)

MOTION BY HUESO TO ADOPT. Second by Young. Passed by the following vote:
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Hueso-yea.

ITEM-331: 7827 Stalmer Tentative Map, Project No. 104906.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners - Mesa Villas Investors, LLC, a California Limited Liability Company.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 20 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.792-acre site is located at 7827 Stalmer Street in the RM-2-5 Zone, the Residential Tandem Parking Overlay Zone, and the Clairemont Mesa Height Limit Overlay Zone, within the Clairemont Mesa Community Plan area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Clairemont Mesa Community Plan Area. District 6.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or

- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-332: Santa Barbara Cove Tentative Map, Project No. 105096.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – George Kung and Jean Cheng.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 10 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.110-acre site is located at 713 Santa Barbara Place in the MBPD-R-S Zone of the Mission Beach Planned District, the Coastal Overlay Zone (State jurisdiction), the Coastal Height Limitation Overlay Zone, the Parking Impact Overlay Zone, the Residential Tandem Parking Overlay Zone, and the Transit Overlay Zone, within the Mission Beach Community Plan and Local Coastal Program Land Use Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Mission Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520,

to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375

Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-333: Sand Pebbles Map Waiver, Project No. 105190.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – George Kung and Jean Cheng.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 4 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.099-acre site is located at 3225 Ocean Front Walk in the MBPD-R-S Zone of the Mission Beach Planned District, the Coastal Overlay Zone (State jurisdiction), the Coastal Height Limitation Overlay Zone, the Sensitive Coastal Resource Overlay Zone, the First Public Roadway, and the Parking Impact Overlay Zone, within the Mission Beach Community Plan and Local Coastal Program Land Use Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Map Waiver will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Mission Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do

not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-334: 4078 Hamilton Tentative Map, Project No. 93907.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – John H. Shale, M.D. and Charlotte R. Shale.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 10 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.16-acre site is located at 4078 Hamilton Street in the MR-1250B Zone of the Mid-City Communities Planned District and the Transit Overlay Zone, within the Greater North Park Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Greater North Park Community Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. *Several issues were considered during the reviews, including traffic, parking, and visual quality.*

Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.



COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-335: 4712 W. Point Loma Boulevard Tentative Map, Project No. 107269.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – Peter Davies [Thomas P. Davies] and Nadia Quintana Davies [Nadia Q. Davies].

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 8 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.168-acre site is located at 4712 W. Point Loma Boulevard in the RM-2-4 Zone, the Ocean Beach Emerging Historic District, the Coastal Overlay Zone (nonappealable area), the Coastal Height Limit Overlay Zone, the Airport Approach Overlay Zone, the Airport Environs Overlay Zone, and the Parking Impact Overlay Zone, within the Ocean Beach Precise Plan and Local Coastal Program Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Ocean Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-336: Rancho Bernardo Tentative Map, Project No. 106141.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – EQR – Derwood Vistas, Inc.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 316 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 27.05-acre site is located at 15640 Bernardo Center Drive in the RM-1-1 Zone, within the Rancho Bernardo Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Rancho Bernardo Community Plan Area. District 5.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. Deny the appeals and uphold the Environmental Determinations.

2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City

Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-337: Albatross Street Condos, Project No. 103928.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – Dan Floit and L-20, LLC.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 24 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.35-acre site is located at 2353 Albatross Street in the MR-1000 zone of the Mid-City Communities Planned District, the Airport Approach Overlay Zone, the Airport Environs Overlay Zone, the Transit Area Overlay Zone, and the Residential Tandem Parking Overlay Zone, within the Uptown Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced project will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Uptown Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375

Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-338: 3635 College Tentative Map, Project No. 99090.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – William R. Mundt, Trustee of the William R. Mundt Trust dated February 11, 1998.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 98 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 1.59-acre site is located at 3635 College Avenue in the CC-5-3 Zone of the Central Urbanized Planned District within the Eastern Neighborhood of the Mid-City Communities Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Eastern Neighborhood of the Mid-City Communities Plan Area. District 7.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California

Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do

not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back

to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-339: 3125 Cowley Way Vesting Tentative Map, Project No. 106917.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – Evans Withycombe Residential, L.P., a Delaware Limited Partnership.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 162 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 8.10-acre site is located at 3125 Cowley Way in the RM-1-1 Zone and the Clairemont Mesa Height Limit Overlay Zone, within the Clairemont Mesa Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Vesting Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Clairemont Mesa Community Plan Area. District 6.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse

environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-340: 5492 Imperial Tentative Map, Project No. 100125.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners –William R. Mundt, Trustee of the William R. Mundt Trust, dated February 11, 1998.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 47 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 1.59-acre site is located at 5492 Imperial Avenue in the MF-1500 Zone of the Southeastern San Diego Planned District within the Encanto Neighborhood of the Southeastern San Diego Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Encanto Neighborhood of the Southeastern San Diego Community Plan Area. District 4.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-341: 4878 Cape May Tentative Map, Project No. 108208.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – Howard J. Thompson, Jr. and Gail Thompson.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 9 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.160-acre site is located at 4878 Cape May Avenue in the RM-2-4 Zone, the Coastal Overlay Zone (nonappealable area), the Coastal Height Limit Overlay Zone, the Airport Approach Overlay Zone, the Airport Environs Overlay Zone, the Parking Impact Overlay Zone, and the Ocean Beach Emerging Historic District, within the Ocean Beach Precise Plan and Local Coastal Program Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Ocean Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375

Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-342: 3918 Mississippi Tentative Map, Project No. 95317.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – James Mcinnis, Jr.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 8 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.16-acre site is located at 3918 Mississippi Street in the MR-800B Zone of Mid-City Communities Planned District and the Transit Overlay Zone, within the Greater North Park Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Greater North Park Community Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act

(CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-343: 4233 Euclid Tentative Map, Project No. 100347.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – William R. Mundt, Trustee of the William R. Mundt Trust, dated February 11, 1998.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 16 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.29-acre site is located at 4233 Euclid Avenue in the RM-1-1 Zone of the Central Urbanized Planned District and the Transit Overlay Zone, within the City Heights Neighborhood of the Mid-City Communities Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. City Heights Neighborhood of the Mid-City Communities Plan Area. District 7.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated
3. opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-344: 3867 Mission Boulevard Tentative Map, Project No. 103946.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owner – William R. Clapperton.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the

determination by City staff that the request to convert 2 existing residential dwelling units and 1 commercial unit to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 3,068-square-foot site is located at 3867 Mission Boulevard in the NC-N Zone of the Mission Beach Planned District Zone, the Coastal Overlay Zone (Coastal-Appealable Area and Coastal Commission Jurisdiction), the Coastal Height Limit Overlay Zone, the Beach Parking Impact Overlay Zone, the Residential Tandem Parking Overlay Zone, the Transit Area Overlay Zone, the Mission Beach Precise Plan and Local Coastal Program Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to Council No. 07-043. Mission Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the

projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-345: 4411 Cherokee Map Waiver, Project No. 112481.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owner – Mercedes La Fond.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 2 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.14-acre site is located at 4411-4413 Cherokee Avenue in the RM-1-1 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Normal Heights Neighborhood of the Mid-City Communities Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Map Waiver will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to Council No. 07-043. Normal Heights Neighborhood of the Mid-City Communities Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375

Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-346: 4585 Hilltop Map Waiver, Project No. 109331.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owner – Katherine Phomphakdy.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 3 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.23-acre site is located at 4585 Hilltop Drive in the MF-3000 Zone of the Southeastern San Diego Planned District within the Encanto Neighborhood of the Southeastern San Diego Community Plan area.

It should be noted that the decision of whether to approve or deny the above referenced Map Waiver will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to Council No. 07-043. Encanto Neighborhood of the Southeastern San Diego Community Plan Area. District 4.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Affirm the Development Services Department's *environmental determination* of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act

(CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-347: 824 Sapphire Map Waiver, Project No. 117186.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owner – Jonah Mechanic.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 4 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.137-acre site is located at 824 Sapphire Street in the RM-1-1 Zone, the Coastal Overlay Zone (non-appealable area), the Coastal Height Limit Overlay Zone, the Parking Impact Overlay Zone, and the Transit Area Overlay Zone, within the Pacific Beach Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Map Waiver will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to Council No. 07-043. Pacific Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. *Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.*

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS \

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-348: 740 Genter Map Waiver, Project No. 120245.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owner – Michelle Wong.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 2 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.167-acre site is located at 740 Genter Street in the RM-1-1 Zone, the Coastal Overlay Zone (non-appealable area), the Coastal Height Limit Overlay Zone, the Parking Impact Overlay Zone, the Transit Area Overlay Zone, and the La Jolla Community Plan and Local Coastal Program area.

It should be noted that the decision of whether to approve or deny the above referenced Map Waiver will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to Council No. 07-043. La Jolla Community Plan Area. District 1.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

STAFF RECOMMENDATIONS:

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-349: Consideration of Nominees for Appointment to the San Diego Unified Port District Board of Commissioners.

(See memorandums from Mayor Sanders dated 1/4/2007 and 10/23/2006; Council President Peters and Councilmember Madaffer dated 1/4/2007; Councilmember Brian Maienschein dated 12/5/2006; and City Attorney dated 1/26/2007.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Consider the following list of nominees and select one (1) to fill vacancies on the San Diego Unified Port District Board of Commissioners:

NOMINEE

Stephen P. Cushman
(Scripps Ranch, District 5)
(reappointment requires a waiver of the two-
consecutive term limit provision of
Council Policy 000-13)

NOMINATED BY

Councilmember Brian Maienschein

Laurie J. Black
(Mission Hills, District 2)

Council President Scott Peters and
Councilmember Jim Madaffer

TODAY'S ACTION IS:

(R-2007-794) ADOPTED AS RESOLUTION R-302418

Adoption of a Resolution making one (1) appointment.

NOTE: Council Policy 000-13, as amended on 12-3-84, provides for the following procedure:

1. The Council President calls on each candidate whose name appears on the docket as a nominee to make a presentation to the Council in support of his candidacy for appointment (maximum of 3 minutes presentation each).
2. The Council President calls on members of the Council to ask brief questions of any of the candidates concerning either the presentation or matters contained in their application filed with the City.
3. The City Clerk provides ballots to the Council and each Councilmember votes for the candidates he/she feels to be most qualified for each vacancy and returns the ballots to the City Clerk. Each Councilmember has one vote per vacancy.
4. The candidates receiving the highest number of votes (minimum of five) shall be appointed to the vacancy.
5. If no candidates receive a minimum of five votes, balloting continues until there are sufficient candidates receiving a majority to fill those vacancies. In a tie

among the top vote getters, those candidates run off for the vacancies. If an insufficient number of candidates receive a majority of votes to fill all vacancies, a run off will be held among the remaining candidates to fill the remaining vacancies.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:08 p.m. – 4:42 p.m.)

Motion by Maienschein to waive the term limit policy. Second by Frye. Failed. Yeas-4, 5, 6, 8. Nays-1, 2, 3, 7.

Motion by Madaffer to Appoint Laurie J. Black to the San Diego Unified Port District Board of Commissioners. Second by Peters. Failed. Yeas-1, 2, 3, 7. Nays-4, 5, 6, 8.

MOTION BY ATKINS TO RECONSIDER THE PREVIOUS MOTION TO WAIVE THE TERM LIMIT POLICY. Second by Frye. Passed by the following vote: Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-yea.

MOTION BY MAIENSCHIEIN TO WAIVE THE TERM LIMIT POLICY. Second by Frye. Passed by the following vote: Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-yea.

MOTION BY FRYE TO RECONSIDER THE PREVIOUS MOTION TO APPOINT LAURIE J. BLACK TO THE SAN DIEGO UNIFIED PORT DISTRICT BOARD OF COMMISSIONERS. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION TO REAPPOINT STEPHEN CUSHMAN TO THE SAN DIEGO UNIFIED PORT DISTRICT BOARD OF COMMISSIONERS. Passed by the following vote: Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-yea.

ITEM-350: Preliminary Items for Multifamily Revenue Bonds for Redwood Villa Apartments.

(See San Diego Housing Commission Report HAR-07-004. Eastern Community Area. District 4.)

SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-826) ADOPTED AS RESOLUTION R-302419

Declaring that this City Council, as the applicable elected representative under Section 147(f) of the Code, approves the issuance of not to exceed \$7,000,000 aggregate principal amount of multifamily housing revenue bonds (Bonds) by the Housing Authority of the City of San Diego (Authority), to finance the acquisition and rehabilitation of a multifamily rental housing project in the City of San Diego described in the Notice of Public Hearing attached as Exhibit A (Project);

Declaring that the City does not warrant the creditworthiness of the Bonds or guarantee, in any way, the payment of the Bonds. No moneys of the City will be pledged or applied to the repayment of the Bonds.

SUPPORTING INFORMATION:

Redwood Villa is an existing 92-unit affordable housing development for seniors located at 3060 53rd Street in the community of Oak Park. The project contains 66 one-bedroom units, 24 two-bedroom units, and two three-bedroom staff units. Interfaith proposes to refinance and rehabilitate the project using tax exempt bonds and 4% tax credits. The refinancing will allow for financial stabilization of the project, an increased term of affordability, and substantial rehabilitation of the project.

Redwood Villa currently has rent and occupancy restrictions on 74 of its 92 total units: 17 units are restricted at 50% Area Median Income (AMI) (\$27,600 for a family of two), 46 units are restricted at 60% AMI (\$33,100 for a family of two), and 11 units are restricted at 65% AMI (\$35,900 for a family of two). The remaining 18 units are unrestricted.

Through the proposed refinancing, Redwood Villa will continue to provide housing for low income seniors. As part of its agreement with the State to payoff its RHCP loan, Interfaith will continue to restrict at least 27 units at 50% AMI until the year 2018.

In addition, under the Housing Commission's Multifamily Bond Program, the project will restrict 9 units at 50% AMI and 81 units at 60% AMI for 55 years.

FISCAL CONSIDERATIONS:

Approval of these preliminary actions does not commit the Housing Authority to issue bonds. Should the Housing Authority at a later date authorize the issuance of bonds for the project, the bonds would not constitute a financial liability to the Housing Authority or the City of San Diego because security for repayment of the bonds would be limited to the value of the property and its revenues. Neither the faith and credit nor the taxing power of the City or the Authority would be pledged to the payment of the bonds. No local housing funds.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

From 1983 through 1988 the Housing Commission, City Council, and Housing Authority approved several items to facilitate the financing of Redwood Villa Apartments. On February 9, 2007, the Housing Commission recommended that the Housing Authority and City Council approve the actions described in this report.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Interfaith anticipates presenting an informational item on the refinancing and rehabilitation of the project to the Eastern Area Planning Group in the near future.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Low income seniors are the intended residents of the project. Interfaith will refinance and rehabilitate the project. Red Capital Group will provide debt and equity for the project. The Housing Commission has selected Public Financial Management and Stradling, Yocca Carlson & Rauth to assist in preparing the proposed financing.

Fisher/Morris

NOTE: See the Housing Authority Agenda of March 6, 2007 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:43 p.m. – 4:52 p.m.)

MOTION BY HUESO TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-recused, Faulconer-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S500: Application to Workforce Housing Reward Program (WFH) for Grant Funds.

(See Report to the City Council No. 07-049 and memorandum from James T. Waring dated 2/28/2007.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-821) ADOPTED AS RESOLUTION R-302417

Authorizing the Mayor, the Director of the City Planning & Community Investment Department and the Assistant Director of the City Planning & Community Investment Department, or any of them, to execute, apply for, and submit the 2006 Calendar Year Workforce Housing Reward Program Application Package;

Authorizing the Mayor, the Director of the City Planning & Community Investment Department and the Assistant Director of the City Planning & Community Investment Department, or any of them, upon approval of the application by the State of California, Department of Housing and Community Development, to enter into, execute, and deliver a State of California Standard Agreement and any other WFH grant documents subject to review and approval of the City Attorney's Office, and to approve funding allocations;

Declaring this activity is not a project and therefore is exempt from the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15060(c)(3).

Staff: Michele St. Bernard - (619) 533-4218
Huston Carlyle – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:24 a.m. – 11:24 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Pro Tem Young at 4:54 p.m. in honor of the memory of:

Warren D. Phillips as requested by Council Member Atkins.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:53 p.m. – 4:54 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR THE ADJOURNED REGULAR COUNCIL MEETING
OF
MONDAY, MARCH 12, 2007
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Present: None.

Not Present: Council Members Peters, Faulconer, Atkins, Young, Maienschein, Frye,
Madaffer, Hueso.

Clerk: Levenson-Cruz.

The City Council meeting of Tuesday, March 13, 2007, has been adjourned, pursuant to 2007 Legislative Calendar, adopted by Resolution R-302134 on November 28, 2006.

The meeting of Monday, March 19, 2007, will be held in conjunction with the regularly scheduled meeting of Tuesday, March 20, 2007. (The Closed Session Agenda for Tuesday, March 20, 2007, will commence immediately following the conclusion of the regular open session meeting.)

Elizabeth S. Maland, City Clerk
City of San Diego

000316

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR THE ADJOURNED REGULAR COUNCIL MEETING
OF
TUESDAY, MARCH 13, 2007
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Present: None.

Not Present: Council Members Peters, Faulconer, Atkins, Young, Maienschein, Frye,
Madaffer, Hueso.

Clerk: Sanchez.

The City Council meeting of Monday, March 12, 2007, has been adjourned, pursuant to 2007 Legislative Calendar, adopted by Resolution R-302134 on November 28, 2006.

The meeting of Monday, March 19, 2007, will be held in conjunction with the regularly scheduled meeting of Tuesday, March 20, 2007. (The Closed Session Agenda for Tuesday, March 20, 2007, will commence immediately following the conclusion of the regular open session meeting.)

Elizabeth S. Maland, City Clerk
City of San Diego

000317

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, MARCH 19, 2007
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:02 p.m. Council President Peters recessed the meeting at 3:46 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:56 p.m. with Council President Pro Tem Young not present. Council President Peters recessed the meeting at 4:02 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 4:03 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 5:53 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present
- Clerk-Maland (gs)

FILE LOCATION:

MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Reverend Richard Rollefson of Christ Lutheran Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschein.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-1 *Save Our Forest and Ranchlands v. City of San Diego, et al.*
San Diego Superior Court Case No. GIC 864298

Save Our Heritage Organization v. City of San Diego, et al.
San Diego Superior Court Case No. GIC 865774

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 20, 2007

CDCA Assigned: H. Carlyle

These cases involve court challenges under the California Environmental Quality Act to the approvals of the Downtown Community Plan, implementing ordinances and Environmental Impact Reports. In closed session the City Attorney will seek authority to settle the cases.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:57 p.m. – 4:02 p.m.)

Council President Peters closed the hearing.

CS-2 *Bruno Etchepare v. City of San Diego*
San Diego Superior Court Case No. GIC 859369

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 20, 2007

DCA Assigned: A. Jones

This matter involves a claim for flood damages at 2320 Meade Avenue, resulting from the failure of the storm drain system on October 27, 2004. The City Attorney requests that the Mayor and City Council consider a possible settlement of the case in closed session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:57 p.m. – 4:02 p.m.)

Council President Peters closed the hearing.

CS-3 *San Diego Police Officers' Association v. Michael Aguirre, et al.*
United States District Court Case No. 05-CV-1481 H

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 20, 2007

EACA Assigned: D. McGrath

In closed session counsel for the City of San Diego, Peter Benzian of Latham & Watkins, and the City Attorney's Office seek Council approval to expedite the testimony of William Kay.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:57 p.m. – 4:02 p.m.)

Council President Peters closed the hearing.

CS-4 *Jill P. Shina v. Linda Alayoubi, et al.*
San Diego Superior Court Case No. GIC 861123

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 20, 2007

DCA Assigned: R. Walters

This lawsuit arises out of a traffic accident which occurred on Highway 163. Plaintiff alleges that a City employee negligently operated a City vehicle that collided with Plaintiff's vehicle. In closed session the City Attorney will recommend a possible settlement of the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:57 p.m. – 4:02 p.m.)

Council President Peters closed the hearing.

CS-5 *Citizens for Responsible Equitable Environmental Development v. City of San Diego*
San Diego Superior Court Case No. GIC 871259

Affordable Housing Coalition of San Diego County v. City of San Diego, et al.
Appeal Case No. D049665 San Diego Superior Court Case No. GIC 857723

Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego, et al.
Court of Appeal Case No. D049637; San Diego Superior Court Case No.
GIC 858098

Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego
San Diego Superior Court Case No. GIC 876017

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 20, 2007

DCA Assigned: M. Dickenson

Theses matters involve California Environmental Quality Act challenges to the City Council's approvals of condominium conversions. The City Attorney requests the City Council consider a possible settlement of these matters in closed session.

Closed Session Comment 1:

Evelyn Heidelberg commented on the City Attorney not giving objective legal advice regarding the City's potential liability under these actions and suggested the City retain outside legal counsel.

000322

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for the Regular Meeting of Monday, March 19, 2007**

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FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:57 p.m. – 4:02 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-6 Agency Negotiator: Scott Chadwick, J. Rod Betts, Lisa Briggs, Rich Snapper, Jessica Falk Michelli, William Gersten, and Debora Buljat

Employee Organizations: Local 145 International Association of Firefighters
AFL-CIO, San Diego Police Officers Association, and
Deputy City Attorney Association

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 20, 2007

DCA Assigned: W. Gersten/D. Buljat

Discuss with Council pending substantive negotiations with employee unions (Police Officers Association, International Association of Firefighters Local 145, and the Deputy City Attorney's Association).

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:57 p.m. – 4:02 p.m.)

Council President Peters closed the hearing.

ITEM-200: Alternative Proposal for Amendments to the Appropriations Ordinance; Repeal of BPR Ordinance; All Relating to the Budget Authority of the Mayor and City Council.

(See Independent Budget Analyst Report No. 07-30 and memorandum from Council President Peters dated 3/1/2007.)

**COUNCIL PRESIDENT PETERS' AND COUNCIL PRESIDENT PRO TEM YOUNG'S
RECOMMENDATION:**

Take the following actions:

(O-2007-B) CONTINUED TO TUESDAY, APRIL 10, 2007

Amending Ordinance No. O-19522 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2006-2007 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year," by amending Paragraph 14 thereof with respect to Business Process Reengineering and other matters connected therewith;

The Mayoral authority to make changes to the adopted budget shall be limited as follows:

Budgetary control shall be at the department level by Fund as approved in the Appropriation Ordinance and adopted by the City Council;

Salary savings cannot be used to cover non-personnel expenses;

Funding increases above the amount included in the Appropriations Ordinance require an amendment to the Appropriations Ordinance by the City Council;

Any cumulative reduction in spending resulting from Mayor action in an amount of 10% or \$4 million, whichever is less, in a particular department will require an amendment to the Appropriations Ordinance by the City Council. This may be triggered by either the first budgetary adjustment that meets this threshold or a later budget adjustment that has the cumulative affect of exceeding this threshold;